

Senator Lincoln Fillmore proposes the following substitute bill:

EDUCATION ENTITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill provides a home-based education entity and micro-education entity with certain similar duties, requirements, waivers, and rights as private and charter schools.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a county and municipality to consider micro-education and home-based education entities as a permitted use in all zoning districts within a county and municipality;
- ▶ identifies the occupancy requirements to which a micro-education entity is subject;
- ▶ requires a local school board to excuse a student of a micro-education entity or home-based education entity under certain circumstances;
- ▶ provides that an instructor of a school-age child who attends a micro-education entity or home-based education entity is solely responsible for instruction, materials, and evaluation;
- ▶ prohibits a local school board from requiring a micro-education entity or home-based education entity to provide teaching credentials, submit to inspection, and conduct testing;



- 26 ▶ prevents government entities from regulating micro-education entity and
- 27 home-based education entity food preparation and distribution under certain
- 28 circumstances;
- 29 ▶ allows students in a micro-education entity or home-based education entity to
- 30 participate in extracurricular activities in a public school;
- 31 ▶ exempts a student of a micro-education entity or a home-based education entity
- 32 from immunization requirements; and
- 33 ▶ makes technical changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **10-9a-103**, as last amended by Laws of Utah 2022, Chapters 355, 406

41 **10-9a-305**, as last amended by Laws of Utah 2021, Chapter 35

42 **10-9a-529**, as last amended by Laws of Utah 2021, Chapter 385

43 **17-27a-103**, as last amended by Laws of Utah 2022, Chapter 406

44 **17-27a-305**, as last amended by Laws of Utah 2021, Chapter 35

45 **32B-1-102**, as last amended by Laws of Utah 2022, Chapter 447

46 **53G-6-201**, as last amended by Laws of Utah 2021, Chapters 113, 261 and 427

47 **53G-6-204**, as last amended by Laws of Utah 2021, Chapter 359

48 **53G-6-702**, as last amended by Laws of Utah 2020, Chapter 408

49 **53G-6-703**, as last amended by Laws of Utah 2019, Chapter 293

50 **53G-6-706**, as last amended by Laws of Utah 2019, Chapter 293

51 **53G-9-301**, as last amended by Laws of Utah 2022, Chapter 255

52 ENACTS:

53 **53G-6-212**, Utah Code Annotated 1953



55 *Be it enacted by the Legislature of the state of Utah:*

56 Section 1. Section **10-9a-103** is amended to read:

57 **10-9a-103. Definitions.**

58 As used in this chapter:

59 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
60 detached from a primary single-family dwelling and contained on one lot.

61 (2) "Adversely affected party" means a person other than a land use applicant who:

62 (a) owns real property adjoining the property that is the subject of a land use
63 application or land use decision; or

64 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
65 general community as a result of the land use decision.

66 (3) "Affected entity" means a county, municipality, local district, special service
67 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
68 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
69 public utility, property owner, property owners association, or the [Utah] Department of
70 Transportation, if:

71 (a) the entity's services or facilities are likely to require expansion or significant
72 modification because of an intended use of land;

73 (b) the entity has filed with the municipality a copy of the entity's general or long-range
74 plan; or

75 (c) the entity has filed with the municipality a request for notice during the same
76 calendar year and before the municipality provides notice to an affected entity in compliance
77 with a requirement imposed under this chapter.

78 (4) "Affected owner" means the owner of real property that is:

79 (a) a single project;

80 (b) the subject of a land use approval that sponsors of a referendum timely challenged
81 in accordance with Subsection 20A-7-601(6); and

82 (c) determined to be legally referable under Section 20A-7-602.8.

83 (5) "Appeal authority" means the person, board, commission, agency, or other body
84 designated by ordinance to decide an appeal of a decision of a land use application or a
85 variance.

86 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
87 residential property if the sign is designed or intended to direct attention to a business, product,

88 or service that is not sold, offered, or existing on the property where the sign is located.

89 (7) (a) "Charter school" means:

90 (i) an operating charter school;

91 (ii) a charter school applicant that a charter school authorizer approves in accordance

92 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

93 (iii) an entity that is working on behalf of a charter school or approved charter

94 applicant to develop or construct a charter school building.

95 (b) "Charter school" does not include a therapeutic school.

96 (8) "Conditional use" means a land use that, because of the unique characteristics or

97 potential impact of the land use on the municipality, surrounding neighbors, or adjacent land

98 uses, may not be compatible in some areas or may be compatible only if certain conditions are

99 required that mitigate or eliminate the detrimental impacts.

100 (9) "Constitutional taking" means a governmental action that results in a taking of
101 private property so that compensation to the owner of the property is required by the:

102 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

103 (b) Utah Constitution Article I, Section 22.

104 (10) "Culinary water authority" means the department, agency, or public entity with

105 responsibility to review and approve the feasibility of the culinary water system and sources for

106 the subject property.

107 (11) "Development activity" means:

108 (a) any construction or expansion of a building, structure, or use that creates additional
109 demand and need for public facilities;

110 (b) any change in use of a building or structure that creates additional demand and need
111 for public facilities; or

112 (c) any change in the use of land that creates additional demand and need for public
113 facilities.

114 (12) (a) "Development agreement" means a written agreement or amendment to a
115 written agreement between a municipality and one or more parties that regulates or controls the
116 use or development of a specific area of land.

117 (b) "Development agreement" does not include an improvement completion assurance.

118 (13) (a) "Disability" means a physical or mental impairment that substantially limits

119 one or more of a person's major life activities, including a person having a record of such an
120 impairment or being regarded as having such an impairment.

121 (b) "Disability" does not include current illegal use of, or addiction to, any federally
122 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
123 802.

124 (14) "Educational facility":

125 (a) means:

126 (i) a school district's building at which pupils assemble to receive instruction in a
127 program for any combination of grades from preschool through grade 12, including
128 kindergarten and a program for children with disabilities;

129 (ii) a structure or facility:

130 (A) located on the same property as a building described in Subsection (14)(a)(i); and

131 (B) used in support of the use of that building; and

132 (iii) a building to provide office and related space to a school district's administrative
133 personnel; and

134 (b) does not include:

135 (i) land or a structure, including land or a structure for inventory storage, equipment
136 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

137 (A) not located on the same property as a building described in Subsection (14)(a)(i);
138 and

139 (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

140 (ii) a therapeutic school.

141 (15) "Fire authority" means the department, agency, or public entity with responsibility
142 to review and approve the feasibility of fire protection and suppression services for the subject
143 property.

144 (16) "Flood plain" means land that:

145 (a) is within the 100-year flood plain designated by the Federal Emergency
146 Management Agency; or

147 (b) has not been studied or designated by the Federal Emergency Management Agency
148 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
149 the land has characteristics that are similar to those of a 100-year flood plain designated by the

150 Federal Emergency Management Agency.

151 (17) "General plan" means a document that a municipality adopts that sets forth general
152 guidelines for proposed future development of the land within the municipality.

153 (18) "Geologic hazard" means:

154 (a) a surface fault rupture;

155 (b) shallow groundwater;

156 (c) liquefaction;

157 (d) a landslide;

158 (e) a debris flow;

159 (f) unstable soil;

160 (g) a rock fall; or

161 (h) any other geologic condition that presents a risk:

162 (i) to life;

163 (ii) of substantial loss of real property; or

164 (iii) of substantial damage to real property.

165 (19) "Historic preservation authority" means a person, board, commission, or other
166 body designated by a legislative body to:

167 (a) recommend land use regulations to preserve local historic districts or areas; and

168 (b) administer local historic preservation land use regulations within a local historic
169 district or area.

170 (20) "Home-based education entity" means the same as that term is defined in Section
171 53G-6-201.

172 [~~20~~] (21) "Hookup fee" means a fee for the installation and inspection of any pipe,
173 line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or
174 other utility system.

175 [~~21~~] (22) "Identical plans" means building plans submitted to a municipality that:

176 (a) are clearly marked as "identical plans";

177 (b) are substantially identical to building plans that were previously submitted to and
178 reviewed and approved by the municipality; and

179 (c) describe a building that:

180 (i) is located on land zoned the same as the land on which the building described in the

181 previously approved plans is located;

182 (ii) is subject to the same geological and meteorological conditions and the same law
183 as the building described in the previously approved plans;

184 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
185 and approved by the municipality; and

186 (iv) does not require any additional engineering or analysis.

187 [~~22~~] (23) "Impact fee" means a payment of money imposed under Title 11, Chapter
188 36a, Impact Fees Act.

189 [~~23~~] (24) "Improvement completion assurance" means a surety bond, letter of credit,
190 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
191 by a municipality to guaranty the proper completion of landscaping or an infrastructure
192 improvement required as a condition precedent to:

193 (a) recording a subdivision plat; or

194 (b) development of a commercial, industrial, mixed use, or multifamily project.

195 [~~24~~] (25) "Improvement warranty" means an applicant's unconditional warranty that
196 the applicant's installed and accepted landscaping or infrastructure improvement:

197 (a) complies with the municipality's written standards for design, materials, and
198 workmanship; and

199 (b) will not fail in any material respect, as a result of poor workmanship or materials,
200 within the improvement warranty period.

201 [~~25~~] (26) "Improvement warranty period" means a period:

202 (a) no later than one year after a municipality's acceptance of required landscaping; or

203 (b) no later than one year after a municipality's acceptance of required infrastructure,
204 unless the municipality:

205 (i) determines for good cause that a one-year period would be inadequate to protect the
206 public health, safety, and welfare; and

207 (ii) has substantial evidence, on record:

208 (A) of prior poor performance by the applicant; or

209 (B) that the area upon which the infrastructure will be constructed contains suspect soil
210 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

211 [~~26~~] (27) "Infrastructure improvement" means permanent infrastructure that is

212 essential for the public health and safety or that:

213 (a) is required for human occupation; and

214 (b) an applicant must install:

215 (i) in accordance with published installation and inspection specifications for public
216 improvements; and

217 (ii) whether the improvement is public or private, as a condition of:

218 (A) recording a subdivision plat;

219 (B) obtaining a building permit; or

220 (C) development of a commercial, industrial, mixed use, condominium, or multifamily
221 project.

222 ~~[(27)]~~ (28) "Internal lot restriction" means a platted note, platted demarcation, or
223 platted designation that:

224 (a) runs with the land; and

225 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
226 the plat; or

227 (ii) designates a development condition that is enclosed within the perimeter of a lot
228 described on the plat.

229 ~~[(28)]~~ (29) "Land use applicant" means a property owner, or the property owner's
230 designee, who submits a land use application regarding the property owner's land.

231 ~~[(29)]~~ (30) "Land use application":

232 (a) means an application that is:

233 (i) required by a municipality; and

234 (ii) submitted by a land use applicant to obtain a land use decision; and

235 (b) does not mean an application to enact, amend, or repeal a land use regulation.

236 ~~[(30)]~~ (31) "Land use authority" means:

237 (a) a person, board, commission, agency, or body, including the local legislative body,
238 designated by the local legislative body to act upon a land use application; or

239 (b) if the local legislative body has not designated a person, board, commission,
240 agency, or body, the local legislative body.

241 ~~[(31)]~~ (32) "Land use decision" means an administrative decision of a land use
242 authority or appeal authority regarding:

- 243 (a) a land use permit; or
244 (b) a land use application.
245 ~~[(32)]~~ (33) "Land use permit" means a permit issued by a land use authority.
246 ~~[(33)]~~ (34) "Land use regulation":
247 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
248 specification, fee, or rule that governs the use or development of land;
249 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
250 and
251 (c) does not include:
252 (i) a land use decision of the legislative body acting as the land use authority, even if
253 the decision is expressed in a resolution or ordinance; or
254 (ii) a temporary revision to an engineering specification that does not materially:
255 (A) increase a land use applicant's cost of development compared to the existing
256 specification; or
257 (B) impact a land use applicant's use of land.
258 ~~[(34)]~~ (35) "Legislative body" means the municipal council.
259 ~~[(35)]~~ (36) "Local district" means an entity under Title 17B, Limited Purpose Local
260 Government Entities - Local Districts, and any other governmental or quasi-governmental
261 entity that is not a county, municipality, school district, or the state.
262 ~~[(36)]~~ (37) "Local historic district or area" means a geographically definable area that:
263 (a) contains any combination of buildings, structures, sites, objects, landscape features,
264 archeological sites, or works of art that contribute to the historic preservation goals of a
265 legislative body; and
266 (b) is subject to land use regulations to preserve the historic significance of the local
267 historic district or area.
268 ~~[(37)]~~ (38) "Lot" means a tract of land, regardless of any label, that is created by and
269 shown on a subdivision plat that has been recorded in the office of the county recorder.
270 ~~[(38)]~~ (39) (a) "Lot line adjustment" means a relocation of a lot line boundary between
271 adjoining lots or between a lot and adjoining parcels in accordance with Section [10-9a-608](#):
272 (i) whether or not the lots are located in the same subdivision; and
273 (ii) with the consent of the owners of record.

- 274 (b) "Lot line adjustment" does not mean a new boundary line that:
275 (i) creates an additional lot; or
276 (ii) constitutes a subdivision.
- 277 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
278 Department of Transportation.
- 279 ~~[(39)]~~ (40) "Major transit investment corridor" means public transit service that uses or
280 occupies:
- 281 (a) public transit rail right-of-way;
282 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;
283 or
284 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
285 municipality or county and:
- 286 (i) a public transit district as defined in Section [17B-2a-802](#); or
287 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).
- 288 (41) "Micro-education entity" means the same as that term is defined in Section
289 [53G-6-201](#).
- 290 ~~[(40)]~~ (42) "Moderate income housing" means housing occupied or reserved for
291 occupancy by households with a gross household income equal to or less than 80% of the
292 median gross income for households of the same size in the county in which the city is located.
- 293 ~~[(41)]~~ (43) "Municipal utility easement" means an easement that:
- 294 (a) is created or depicted on a plat recorded in a county recorder's office and is
295 described as a municipal utility easement granted for public use;
296 (b) is not a protected utility easement or a public utility easement as defined in Section
297 [54-3-27](#);
- 298 (c) the municipality or the municipality's affiliated governmental entity uses and
299 occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm
300 water, or communications or data lines;
- 301 (d) is used or occupied with the consent of the municipality in accordance with an
302 authorized franchise or other agreement;
- 303 (e) (i) is used or occupied by a specified public utility in accordance with an authorized
304 franchise or other agreement; and

305 (ii) is located in a utility easement granted for public use; or
306 (f) is described in Section 10-9a-529 and is used by a specified public utility.

307 [~~(42)~~] (44) "Nominal fee" means a fee that reasonably reimburses a municipality only
308 for time spent and expenses incurred in:

- 309 (a) verifying that building plans are identical plans; and
- 310 (b) reviewing and approving those minor aspects of identical plans that differ from the
311 previously reviewed and approved building plans.

312 [~~(43)~~] (45) "Noncomplying structure" means a structure that:

- 313 (a) legally existed before the structure's current land use designation; and
- 314 (b) because of one or more subsequent land use ordinance changes, does not conform
315 to the setback, height restrictions, or other regulations, excluding those regulations, which
316 govern the use of land.

317 [~~(44)~~] (46) "Nonconforming use" means a use of land that:

- 318 (a) legally existed before its current land use designation;
- 319 (b) has been maintained continuously since the time the land use ordinance governing
320 the land changed; and
- 321 (c) because of one or more subsequent land use ordinance changes, does not conform
322 to the regulations that now govern the use of the land.

323 [~~(45)~~] (47) "Official map" means a map drawn by municipal authorities and recorded in
324 a county recorder's office that:

- 325 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
326 highways and other transportation facilities;
- 327 (b) provides a basis for restricting development in designated rights-of-way or between
328 designated setbacks to allow the government authorities time to purchase or otherwise reserve
329 the land; and
- 330 (c) has been adopted as an element of the municipality's general plan.

331 [~~(46)~~] (48) "Parcel" means any real property that is not a lot.

332 [~~(47)~~] (49) (a) "Parcel boundary adjustment" means a recorded agreement between
333 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary
334 line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

- 335 (i) none of the property identified in the agreement is a lot; or

336 (ii) the adjustment is to the boundaries of a single person's parcels.

337 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary
338 line that:

339 (i) creates an additional parcel; or

340 (ii) constitutes a subdivision.

341 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by
342 the Department of Transportation.

343 [~~48~~] (50) "Person" means an individual, corporation, partnership, organization,
344 association, trust, governmental agency, or any other legal entity.

345 [~~49~~] (51) "Plan for moderate income housing" means a written document adopted by
346 a municipality's legislative body that includes:

347 (a) an estimate of the existing supply of moderate income housing located within the
348 municipality;

349 (b) an estimate of the need for moderate income housing in the municipality for the
350 next five years;

351 (c) a survey of total residential land use;

352 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
353 income housing; and

354 (e) a description of the municipality's program to encourage an adequate supply of
355 moderate income housing.

356 [~~50~~] (52) "Plat" means an instrument subdividing property into lots as depicted on a
357 map or other graphical representation of lands that a licensed professional land surveyor makes
358 and prepares in accordance with Section [10-9a-603](#) or [57-8-13](#).

359 [~~51~~] (53) "Potential geologic hazard area" means an area that:

360 (a) is designated by a Utah Geological Survey map, county geologist map, or other
361 relevant map or report as needing further study to determine the area's potential for geologic
362 hazard; or

363 (b) has not been studied by the Utah Geological Survey or a county geologist but
364 presents the potential of geologic hazard because the area has characteristics similar to those of
365 a designated geologic hazard area.

366 [~~52~~] (54) "Public agency" means:

367 (a) the federal government;
368 (b) the state;
369 (c) a county, municipality, school district, local district, special service district, or other
370 political subdivision of the state; or

371 (d) a charter school.

372 [~~(53)~~] (55) "Public hearing" means a hearing at which members of the public are
373 provided a reasonable opportunity to comment on the subject of the hearing.

374 [~~(54)~~] (56) "Public meeting" means a meeting that is required to be open to the public
375 under Title 52, Chapter 4, Open and Public Meetings Act.

376 [~~(55)~~] (57) "Public street" means a public right-of-way, including a public highway,
377 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
378 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
379 easement, or other public way.

380 [~~(56)~~] (58) "Receiving zone" means an area of a municipality that the municipality
381 designates, by ordinance, as an area in which an owner of land may receive a transferable
382 development right.

383 [~~(57)~~] (59) "Record of survey map" means a map of a survey of land prepared in
384 accordance with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

385 [~~(58)~~] (60) "Residential facility for persons with a disability" means a residence:

386 (a) in which more than one person with a disability resides; and

387 (b) (i) which is licensed or certified by the Department of Human Services under Title
388 62A, Chapter 2, Licensure of Programs and Facilities; or

389 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
390 21, Health Care Facility Licensing and Inspection Act.

391 [~~(59)~~] (61) "Rules of order and procedure" means a set of rules that govern and
392 prescribe in a public meeting:

393 (a) parliamentary order and procedure;

394 (b) ethical behavior; and

395 (c) civil discourse.

396 [~~(60)~~] (62) "Sanitary sewer authority" means the department, agency, or public entity
397 with responsibility to review and approve the feasibility of sanitary sewer services or onsite

398 wastewater systems.

399 ~~[(61)]~~ (63) "Sending zone" means an area of a municipality that the municipality
400 designates, by ordinance, as an area from which an owner of land may transfer a transferable
401 development right.

402 ~~[(62)]~~ (64) "Specified public agency" means:

403 (a) the state;

404 (b) a school district; or

405 (c) a charter school.

406 ~~[(63)]~~ (65) "Specified public utility" means an electrical corporation, gas corporation,
407 or telephone corporation, as those terms are defined in Section 54-2-1.

408 ~~[(64)]~~ (66) "State" includes any department, division, or agency of the state.

409 ~~[(65)]~~ (67) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
410 to be divided into two or more lots or other division of land for the purpose, whether
411 immediate or future, for offer, sale, lease, or development either on the installment plan or
412 upon any and all other plans, terms, and conditions.

413 (b) "Subdivision" includes:

414 (i) the division or development of land, whether by deed, metes and bounds
415 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
416 the division includes all or a portion of a parcel or lot; and

417 (ii) except as provided in Subsection ~~[(65)(c)]~~ (67)(c), divisions of land for residential
418 and nonresidential uses, including land used or to be used for commercial, agricultural, and
419 industrial purposes.

420 (c) "Subdivision" does not include:

421 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
422 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
423 neither the resulting combined parcel nor the parcel remaining from the division or partition
424 violates an applicable land use ordinance;

425 (ii) a boundary line agreement recorded with the county recorder's office between
426 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
427 10-9a-524 if no new parcel is created;

428 (iii) a recorded document, executed by the owner of record:

- 429 (A) revising the legal descriptions of multiple parcels into one legal description
- 430 encompassing all such parcels; or
- 431 (B) joining a lot to a parcel;
- 432 (iv) a boundary line agreement between owners of adjoining subdivided properties
- 433 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
- 434 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 435 (B) the adjustment will not violate any applicable land use ordinance;
- 436 (v) a bona fide division of land by deed or other instrument if the deed or other
- 437 instrument states in writing that the division:
- 438 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 439 (B) does not confer any land use approvals; and
- 440 (C) has not been approved by the land use authority;
- 441 (vi) a parcel boundary adjustment;
- 442 (vii) a lot line adjustment;
- 443 (viii) a road, street, or highway dedication plat;
- 444 (ix) a deed or easement for a road, street, or highway purpose; or
- 445 (x) any other division of land authorized by law.
- 446 ~~[(66)]~~ (68) "Subdivision amendment" means an amendment to a recorded subdivision
- 447 in accordance with Section 10-9a-608 that:
- 448 (a) vacates all or a portion of the subdivision;
- 449 (b) alters the outside boundary of the subdivision;
- 450 (c) changes the number of lots within the subdivision;
- 451 (d) alters a public right-of-way, a public easement, or public infrastructure within the
- 452 subdivision; or
- 453 (e) alters a common area or other common amenity within the subdivision.
- 454 ~~[(67)]~~ (69) "Substantial evidence" means evidence that:
- 455 (a) is beyond a scintilla; and
- 456 (b) a reasonable mind would accept as adequate to support a conclusion.
- 457 ~~[(68)]~~ (70) "Suspect soil" means soil that has:
- 458 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 459 3% swell potential;

460 (b) bedrock units with high shrink or swell susceptibility; or
461 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
462 commonly associated with dissolution and collapse features.

463 [~~(69)~~] (71) "Therapeutic school" means a residential group living facility:

464 (a) for four or more individuals who are not related to:

465 (i) the owner of the facility; or

466 (ii) the primary service provider of the facility;

467 (b) that serves students who have a history of failing to function:

468 (i) at home;

469 (ii) in a public school; or

470 (iii) in a nonresidential private school; and

471 (c) that offers:

472 (i) room and board; and

473 (ii) an academic education integrated with:

474 (A) specialized structure and supervision; or

475 (B) services or treatment related to a disability, an emotional development, a

476 behavioral development, a familial development, or a social development.

477 [~~(70)~~] (72) "Transferable development right" means a right to develop and use land that
478 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
479 land use rights from a designated sending zone to a designated receiving zone.

480 [~~(71)~~] (73) "Unincorporated" means the area outside of the incorporated area of a city
481 or town.

482 [~~(72)~~] (74) "Water interest" means any right to the beneficial use of water, including:

483 (a) each of the rights listed in Section 73-1-11; and

484 (b) an ownership interest in the right to the beneficial use of water represented by:

485 (i) a contract; or

486 (ii) a share in a water company, as defined in Section 73-3-3.5.

487 [~~(73)~~] (75) "Zoning map" means a map, adopted as part of a land use ordinance, that
488 depicts land use zones, overlays, or districts.

489 Section 2. Section 10-9a-305 is amended to read:

490 **10-9a-305. Other entities required to conform to municipality's land use**

491 **ordinances -- Exceptions -- A school district, charter school, micro-education entity, and**
492 **home-based education entity -- Submission of development plan and schedule.**

493 (1) (a) Each county, municipality, school district, charter school, local district, special
494 service district, and political subdivision of the state shall conform to any applicable land use
495 ordinance of any municipality when installing, constructing, operating, or otherwise using any
496 area, land, or building situated within that municipality.

497 (b) In addition to any other remedies provided by law, when a municipality's land use
498 ordinance is violated or about to be violated by another political subdivision, that municipality
499 may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
500 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

501 (2) (a) Except as provided in Subsection (3), a school district or charter school is
502 subject to a municipality's land use ordinances.

503 (b) (i) Notwithstanding Subsection (3), a municipality may:

504 (A) subject a charter school to standards within each zone pertaining to setback, height,
505 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
506 staging; and

507 (B) impose regulations upon the location of a project that are necessary to avoid
508 unreasonable risks to health or safety, as provided in Subsection (3)(f).

509 (ii) The standards to which a municipality may subject a charter school under
510 Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

511 (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality
512 may deny or withhold approval of a charter school's land use application is the charter school's
513 failure to comply with a standard imposed under Subsection (2)(b)(i).

514 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
515 obligation to comply with a requirement of an applicable building or safety code to which it is
516 otherwise obligated to comply.

517 (3) A municipality may not:

518 (a) impose requirements for landscaping, fencing, aesthetic considerations,
519 construction methods or materials, additional building inspections, municipal building codes,
520 building use for educational purposes, or the placement or use of temporary classroom facilities
521 on school property;

522 (b) except as otherwise provided in this section, require a school district or charter
523 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
524 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
525 children and not located on or contiguous to school property, unless the roadway or sidewalk is
526 required to connect an otherwise isolated school site to an existing roadway;

527 (c) require a district or charter school to pay fees not authorized by this section;

528 (d) provide for inspection of school construction or assess a fee or other charges for
529 inspection, unless the school district or charter school is unable to provide for inspection by an
530 inspector, other than the project architect or contractor, who is qualified under criteria
531 established by the state superintendent;

532 (e) require a school district or charter school to pay any impact fee for an improvement
533 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

534 (f) impose regulations upon the location of an educational facility except as necessary
535 to avoid unreasonable risks to health or safety; or

536 (g) for a land use or a structure owned or operated by a school district or charter school
537 that is not an educational facility but is used in support of providing instruction to pupils,
538 impose a regulation that:

539 (i) is not imposed on a similar land use or structure in the zone in which the land use or
540 structure is approved; or

541 (ii) uses the tax exempt status of the school district or charter school as criteria for
542 prohibiting or regulating the land use or location of the structure.

543 (4) Subject to Section [53E-3-710](#), a school district or charter school shall coordinate
544 the siting of a new school with the municipality in which the school is to be located, to:

545 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
546 the impacts between the new school and future highways; and

547 (b) maximize school, student, and site safety.

548 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

549 (a) provide a walk-through of school construction at no cost and at a time convenient to
550 the district or charter school; and

551 (b) provide recommendations based upon the walk-through.

552 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

- 553 (i) a municipal building inspector;
- 554 (ii) (A) for a school district, a school district building inspector from that school
- 555 district; or
- 556 (B) for a charter school, a school district building inspector from the school district in
- 557 which the charter school is located; or
- 558 (iii) an independent, certified building inspector who is:
- 559 (A) not an employee of the contractor;
- 560 (B) approved by:
- 561 (I) a municipal building inspector; or
- 562 (II) (Aa) for a school district, a school district building inspector from that school
- 563 district; or
- 564 (Bb) for a charter school, a school district building inspector from the school district in
- 565 which the charter school is located; and
- 566 (C) licensed to perform the inspection that the inspector is requested to perform.
- 567 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
- 568 (c) If a school district or charter school uses a school district or independent building
- 569 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
- 570 the state superintendent of public instruction and municipal building official, on a monthly
- 571 basis during construction of the school building, a copy of each inspection certificate regarding
- 572 the school building.
- 573 (7) (a) A charter school, micro-education entity, or home-based education entity shall
- 574 be considered a permitted use in all zoning districts within a municipality.
- 575 (b) Each land use application for any approval required for a charter school,
- 576 micro-education entity, or home-based education entity, including an application for a building
- 577 permit, shall be processed on a first priority basis.
- 578 (c) Parking requirements for a charter school or a micro-education entity may not
- 579 exceed the minimum parking requirements for schools or other institutional public uses
- 580 throughout the municipality.
- 581 (d) If a municipality has designated zones for a sexually oriented business, or a
- 582 business which sells alcohol, a charter school or a micro-education entity may be prohibited
- 583 from a location which would otherwise defeat the purpose for the zone unless the charter

584 school or micro-education entity provides a waiver.

585 (e) (i) A school district, micro-education entity, or [a] charter school may seek a
586 certificate authorizing permanent occupancy of a school building from:

587 (A) the state superintendent of public instruction, as provided in Subsection
588 53E-3-706(3), if the school district or charter school used an independent building inspector for
589 inspection of the school building; or

590 (B) a municipal official with authority to issue the certificate, if the school district,
591 micro-education entity, or charter school used a municipal building inspector for inspection of
592 the school building.

593 (ii) A school district may issue its own certificate authorizing permanent occupancy of
594 a school building if it used its own building inspector for inspection of the school building,
595 subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

596 (iii) A charter school or micro-education entity may seek a certificate authorizing
597 permanent occupancy of a school building from a school district official with authority to issue
598 the certificate, if the charter school or micro-education entity used a school district building
599 inspector for inspection of the school building.

600 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
601 of public instruction under Subsection 53E-3-706(3) or a school district official with authority
602 to issue the certificate shall be considered to satisfy any municipal requirement for an
603 inspection or a certificate of occupancy.

604 (f) (i) A micro-education entity may operate in a facility that meets Group E
605 Occupancy requirements as defined by the International Building Code, as incorporated by
606 Subsection 15A-2-103(1)(a).

607 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

608 (A) may have up to 100 students in that facility; and

609 (B) shall have enough space for at least 20 net square feet per student.

610 (g) A micro-education entity may operate in a facility that is subject to and complies
611 with the same occupancy requirements as a Class B Occupancy as defined by the International
612 Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

613 (i) the facility has a code-compliant fire alarm system and carbon monoxide detection
614 system;

615 (ii) (A) each classroom in the facility has an exit directly to the outside at the level of
616 exit discharge; or

617 (B) the structure has a code compliant fire sprinkler system;

618 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
619 are greater than 12,000 square feet; and

620 (iv) the facility has enough space for at least 20 net square feet per student.

621 (h) A home-based education entity is not subject to additional occupancy requirements
622 beyond occupancy requirements that apply to a primary dwelling, except that the home-based
623 education entity shall have enough space for at least 35 net square feet per student.

624 (8) (a) A specified public agency intending to develop its land shall submit to the land
625 use authority a development plan and schedule:

626 (i) as early as practicable in the development process, but no later than the
627 commencement of construction; and

628 (ii) with sufficient detail to enable the land use authority to assess:

629 (A) the specified public agency's compliance with applicable land use ordinances;

630 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),
631 (d), (e), and (g) caused by the development;

632 (C) the amount of any applicable fee described in Section 10-9a-510;

633 (D) any credit against an impact fee; and

634 (E) the potential for waiving an impact fee.

635 (b) The land use authority shall respond to a specified public agency's submission
636 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
637 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
638 process of preparing the budget for the development.

639 (9) Nothing in this section may be construed to:

640 (a) modify or supersede Section 10-9a-304; or

641 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,
642 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
643 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
644 1990, 42 U.S.C. 12102, or any other provision of federal law.

645 (10) Nothing in Subsection (7) prevents a political subdivision from:

646 (a) requiring a micro-education entity or home-based education entity to comply with
647 municipal zoning and land use regulations that do not conflict with this section, including:

648 (i) parking;

649 (ii) traffic; and

650 (iii) hours of operation;

651 (b) requiring a micro-education entity or home-based education entity to obtain a
652 business license;

653 (c) enacting municipal ordinances and regulations consistent with this section;

654 (d) subjecting a micro-education entity to standards within each zone pertaining to
655 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
656 construction staging; and

657 (e) imposing regulations on the location of a project that are necessary to avoid risks to
658 health or safety.

659 Section 3. Section **10-9a-529** is amended to read:

660 **10-9a-529. Specified public utility located in a municipal utility easement.**

661 A specified public utility may exercise each power of a public utility under Section
662 [54-3-27](#) if the specified public utility uses an easement:

663 (1) with the consent of a municipality; and

664 (2) that is located within a municipal utility easement described in Subsections
665 [~~10-9a-103(41)~~] [10-9a-103\(43\)](#)(a) through (e).

666 Section 4. Section **17-27a-103** is amended to read:

667 **17-27a-103. Definitions.**

668 As used in this chapter:

669 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
670 detached from a primary single-family dwelling and contained on one lot.

671 (2) "Adversely affected party" means a person other than a land use applicant who:

672 (a) owns real property adjoining the property that is the subject of a land use
673 application or land use decision; or

674 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
675 general community as a result of the land use decision.

676 (3) "Affected entity" means a county, municipality, local district, special service

677 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
678 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
679 property owner, property owner's association, public utility, or the [Utah] Department of
680 Transportation, if:

681 (a) the entity's services or facilities are likely to require expansion or significant
682 modification because of an intended use of land;

683 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
684 or

685 (c) the entity has filed with the county a request for notice during the same calendar
686 year and before the county provides notice to an affected entity in compliance with a
687 requirement imposed under this chapter.

688 (4) "Affected owner" means the owner of real property that is:

689 (a) a single project;

690 (b) the subject of a land use approval that sponsors of a referendum timely challenged
691 in accordance with Subsection 20A-7-601(6); and

692 (c) determined to be legally referable under Section 20A-7-602.8.

693 (5) "Appeal authority" means the person, board, commission, agency, or other body
694 designated by ordinance to decide an appeal of a decision of a land use application or a
695 variance.

696 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
697 residential property if the sign is designed or intended to direct attention to a business, product,
698 or service that is not sold, offered, or existing on the property where the sign is located.

699 (7) (a) "Charter school" means:

700 (i) an operating charter school;

701 (ii) a charter school applicant that a charter school authorizer approves in accordance
702 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

703 (iii) an entity that is working on behalf of a charter school or approved charter
704 applicant to develop or construct a charter school building.

705 (b) "Charter school" does not include a therapeutic school.

706 (8) "Chief executive officer" means the person or body that exercises the executive
707 powers of the county.

708 (9) "Conditional use" means a land use that, because of the unique characteristics or
709 potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,
710 may not be compatible in some areas or may be compatible only if certain conditions are
711 required that mitigate or eliminate the detrimental impacts.

712 (10) "Constitutional taking" means a governmental action that results in a taking of
713 private property so that compensation to the owner of the property is required by the:

714 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

715 (b) Utah Constitution, Article I, Section 22.

716 (11) "County utility easement" means an easement that:

717 (a) a plat recorded in a county recorder's office described as a county utility easement
718 or otherwise as a utility easement;

719 (b) is not a protected utility easement or a public utility easement as defined in Section
720 [54-3-27](#);

721 (c) the county or the county's affiliated governmental entity owns or creates; and

722 (d) (i) either:

723 (A) no person uses or occupies; or

724 (B) the county or the county's affiliated governmental entity uses and occupies to
725 provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or
726 communications or data lines; or

727 (ii) a person uses or occupies with or without an authorized franchise or other
728 agreement with the county.

729 (12) "Culinary water authority" means the department, agency, or public entity with
730 responsibility to review and approve the feasibility of the culinary water system and sources for
731 the subject property.

732 (13) "Development activity" means:

733 (a) any construction or expansion of a building, structure, or use that creates additional
734 demand and need for public facilities;

735 (b) any change in use of a building or structure that creates additional demand and need
736 for public facilities; or

737 (c) any change in the use of land that creates additional demand and need for public
738 facilities.

739 (14) (a) "Development agreement" means a written agreement or amendment to a
740 written agreement between a county and one or more parties that regulates or controls the use
741 or development of a specific area of land.

742 (b) "Development agreement" does not include an improvement completion assurance.

743 (15) (a) "Disability" means a physical or mental impairment that substantially limits
744 one or more of a person's major life activities, including a person having a record of such an
745 impairment or being regarded as having such an impairment.

746 (b) "Disability" does not include current illegal use of, or addiction to, any federally
747 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
748 Sec. 802.

749 (16) "Educational facility":

750 (a) means:

751 (i) a school district's building at which pupils assemble to receive instruction in a
752 program for any combination of grades from preschool through grade 12, including
753 kindergarten and a program for children with disabilities;

754 (ii) a structure or facility:

755 (A) located on the same property as a building described in Subsection (16)(a)(i); and

756 (B) used in support of the use of that building; and

757 (iii) a building to provide office and related space to a school district's administrative
758 personnel; and

759 (b) does not include:

760 (i) land or a structure, including land or a structure for inventory storage, equipment
761 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

762 (A) not located on the same property as a building described in Subsection (16)(a)(i);
763 and

764 (B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

765 (ii) a therapeutic school.

766 (17) "Fire authority" means the department, agency, or public entity with responsibility
767 to review and approve the feasibility of fire protection and suppression services for the subject
768 property.

769 (18) "Flood plain" means land that:

770 (a) is within the 100-year flood plain designated by the Federal Emergency
771 Management Agency; or

772 (b) has not been studied or designated by the Federal Emergency Management Agency
773 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
774 the land has characteristics that are similar to those of a 100-year flood plain designated by the
775 Federal Emergency Management Agency.

776 (19) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

777 (20) "General plan" means a document that a county adopts that sets forth general
778 guidelines for proposed future development of:

779 (a) the unincorporated land within the county; or

780 (b) for a mountainous planning district, the land within the mountainous planning
781 district.

782 (21) "Geologic hazard" means:

783 (a) a surface fault rupture;

784 (b) shallow groundwater;

785 (c) liquefaction;

786 (d) a landslide;

787 (e) a debris flow;

788 (f) unstable soil;

789 (g) a rock fall; or

790 (h) any other geologic condition that presents a risk:

791 (i) to life;

792 (ii) of substantial loss of real property; or

793 (iii) of substantial damage to real property.

794 (22) "Home-based education entity" means the same as that term is defined in Section
795 [53G-6-201](#).

796 [~~22~~] (23) "Hookup fee" means a fee for the installation and inspection of any pipe,
797 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
798 utility system.

799 [~~23~~] (24) "Identical plans" means building plans submitted to a county that:

800 (a) are clearly marked as "identical plans";

801 (b) are substantially identical building plans that were previously submitted to and
802 reviewed and approved by the county; and

803 (c) describe a building that:

804 (i) is located on land zoned the same as the land on which the building described in the
805 previously approved plans is located;

806 (ii) is subject to the same geological and meteorological conditions and the same law
807 as the building described in the previously approved plans;

808 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
809 and approved by the county; and

810 (iv) does not require any additional engineering or analysis.

811 [~~24~~] (25) "Impact fee" means a payment of money imposed under Title 11, Chapter
812 36a, Impact Fees Act.

813 [~~25~~] (26) "Improvement completion assurance" means a surety bond, letter of credit,
814 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
815 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
816 required as a condition precedent to:

817 (a) recording a subdivision plat; or

818 (b) development of a commercial, industrial, mixed use, or multifamily project.

819 [~~26~~] (27) "Improvement warranty" means an applicant's unconditional warranty that
820 the applicant's installed and accepted landscaping or infrastructure improvement:

821 (a) complies with the county's written standards for design, materials, and
822 workmanship; and

823 (b) will not fail in any material respect, as a result of poor workmanship or materials,
824 within the improvement warranty period.

825 [~~27~~] (28) "Improvement warranty period" means a period:

826 (a) no later than one year after a county's acceptance of required landscaping; or

827 (b) no later than one year after a county's acceptance of required infrastructure, unless
828 the county:

829 (i) determines for good cause that a one-year period would be inadequate to protect the
830 public health, safety, and welfare; and

831 (ii) has substantial evidence, on record:

832 (A) of prior poor performance by the applicant; or

833 (B) that the area upon which the infrastructure will be constructed contains suspect soil
834 and the county has not otherwise required the applicant to mitigate the suspect soil.

835 [~~28~~] (29) "Infrastructure improvement" means permanent infrastructure that is
836 essential for the public health and safety or that:

837 (a) is required for human consumption; and

838 (b) an applicant must install:

839 (i) in accordance with published installation and inspection specifications for public
840 improvements; and

841 (ii) as a condition of:

842 (A) recording a subdivision plat;

843 (B) obtaining a building permit; or

844 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
845 project.

846 [~~29~~] (30) "Internal lot restriction" means a platted note, platted demarcation, or
847 platted designation that:

848 (a) runs with the land; and

849 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
850 the plat; or

851 (ii) designates a development condition that is enclosed within the perimeter of a lot
852 described on the plat.

853 [~~30~~] (31) "Interstate pipeline company" means a person or entity engaged in natural
854 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
855 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

856 [~~31~~] (32) "Intrastate pipeline company" means a person or entity engaged in natural
857 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
858 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

859 [~~32~~] (33) "Land use applicant" means a property owner, or the property owner's
860 designee, who submits a land use application regarding the property owner's land.

861 [~~33~~] (34) "Land use application":

862 (a) means an application that is:

863 (i) required by a county; and
864 (ii) submitted by a land use applicant to obtain a land use decision; and
865 (b) does not mean an application to enact, amend, or repeal a land use regulation.
866 [~~(34)~~] (35) "Land use authority" means:
867 (a) a person, board, commission, agency, or body, including the local legislative body,
868 designated by the local legislative body to act upon a land use application; or
869 (b) if the local legislative body has not designated a person, board, commission,
870 agency, or body, the local legislative body.
871 [~~(35)~~] (36) "Land use decision" means an administrative decision of a land use
872 authority or appeal authority regarding:
873 (a) a land use permit;
874 (b) a land use application; or
875 (c) the enforcement of a land use regulation, land use permit, or development
876 agreement.
877 [~~(36)~~] (37) "Land use permit" means a permit issued by a land use authority.
878 [~~(37)~~] (38) "Land use regulation":
879 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
880 specification, fee, or rule that governs the use or development of land;
881 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
882 and
883 (c) does not include:
884 (i) a land use decision of the legislative body acting as the land use authority, even if
885 the decision is expressed in a resolution or ordinance; or
886 (ii) a temporary revision to an engineering specification that does not materially:
887 (A) increase a land use applicant's cost of development compared to the existing
888 specification; or
889 (B) impact a land use applicant's use of land.
890 [~~(38)~~] (39) "Legislative body" means the county legislative body, or for a county that
891 has adopted an alternative form of government, the body exercising legislative powers.
892 [~~(39)~~] (40) "Local district" means any entity under Title 17B, Limited Purpose Local
893 Government Entities - Local Districts, and any other governmental or quasi-governmental

894 entity that is not a county, municipality, school district, or the state.

895 ~~[(40)]~~ (41) "Lot" means a tract of land, regardless of any label, that is created by and
896 shown on a subdivision plat that has been recorded in the office of the county recorder.

897 ~~[(41)]~~ (42) (a) "Lot line adjustment" means a relocation of a lot line boundary between
898 adjoining lots or between a lot and adjoining parcels in accordance with Section [17-27a-608](#):

899 (i) whether or not the lots are located in the same subdivision; and

900 (ii) with the consent of the owners of record.

901 (b) "Lot line adjustment" does not mean a new boundary line that:

902 (i) creates an additional lot; or

903 (ii) constitutes a subdivision.

904 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
905 Department of Transportation.

906 ~~[(42)]~~ (43) "Major transit investment corridor" means public transit service that uses or
907 occupies:

908 (a) public transit rail right-of-way;

909 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

910 or

911 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
912 municipality or county and:

913 (i) a public transit district as defined in Section [17B-2a-802](#); or

914 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).

915 (44) "Micro-education entity" means the same as that term is defined in Section
916 [53G-6-201](#).

917 ~~[(43)]~~ (45) "Moderate income housing" means housing occupied or reserved for
918 occupancy by households with a gross household income equal to or less than 80% of the
919 median gross income for households of the same size in the county in which the housing is
920 located.

921 ~~[(44)]~~ (46) "Mountainous planning district" means an area designated by a county
922 legislative body in accordance with Section [17-27a-901](#).

923 ~~[(45)]~~ (47) "Nominal fee" means a fee that reasonably reimburses a county only for
924 time spent and expenses incurred in:

- 925 (a) verifying that building plans are identical plans; and
- 926 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 927 previously reviewed and approved building plans.

928 [~~(46)~~] (48) "Noncomplying structure" means a structure that:

- 929 (a) legally existed before the structure's current land use designation; and
- 930 (b) because of one or more subsequent land use ordinance changes, does not conform
- 931 to the setback, height restrictions, or other regulations, excluding those regulations that govern
- 932 the use of land.

933 [~~(47)~~] (49) "Nonconforming use" means a use of land that:

- 934 (a) legally existed before the current land use designation;
- 935 (b) has been maintained continuously since the time the land use ordinance regulation
- 936 governing the land changed; and
- 937 (c) because of one or more subsequent land use ordinance changes, does not conform
- 938 to the regulations that now govern the use of the land.

939 [~~(48)~~] (50) "Official map" means a map drawn by county authorities and recorded in

940 the county recorder's office that:

- 941 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
- 942 highways and other transportation facilities;
- 943 (b) provides a basis for restricting development in designated rights-of-way or between
- 944 designated setbacks to allow the government authorities time to purchase or otherwise reserve
- 945 the land; and
- 946 (c) has been adopted as an element of the county's general plan.

947 [~~(49)~~] (51) "Parcel" means any real property that is not a lot.

948 [~~(50)~~] (52) (a) "Parcel boundary adjustment" means a recorded agreement between

949 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary

950 line agreement in accordance with Section [17-27a-523](#), if no additional parcel is created and:

- 951 (i) none of the property identified in the agreement is a lot; or
- 952 (ii) the adjustment is to the boundaries of a single person's parcels.
- 953 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary
- 954 line that:

- 955 (i) creates an additional parcel; or

956 (ii) constitutes a subdivision.

957 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by
958 the Department of Transportation.

959 [~~51~~] (53) "Person" means an individual, corporation, partnership, organization,
960 association, trust, governmental agency, or any other legal entity.

961 [~~52~~] (54) "Plan for moderate income housing" means a written document adopted by
962 a county legislative body that includes:

963 (a) an estimate of the existing supply of moderate income housing located within the
964 county;

965 (b) an estimate of the need for moderate income housing in the county for the next five
966 years;

967 (c) a survey of total residential land use;

968 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
969 income housing; and

970 (e) a description of the county's program to encourage an adequate supply of moderate
971 income housing.

972 [~~53~~] (55) "Planning advisory area" means a contiguous, geographically defined
973 portion of the unincorporated area of a county established under this part with planning and
974 zoning functions as exercised through the planning advisory area planning commission, as
975 provided in this chapter, but with no legal or political identity separate from the county and no
976 taxing authority.

977 [~~54~~] (56) "Plat" means an instrument subdividing property into lots as depicted on a
978 map or other graphical representation of lands that a licensed professional land surveyor makes
979 and prepares in accordance with Section [17-27a-603](#) or [57-8-13](#).

980 [~~55~~] (57) "Potential geologic hazard area" means an area that:

981 (a) is designated by a Utah Geological Survey map, county geologist map, or other
982 relevant map or report as needing further study to determine the area's potential for geologic
983 hazard; or

984 (b) has not been studied by the Utah Geological Survey or a county geologist but
985 presents the potential of geologic hazard because the area has characteristics similar to those of
986 a designated geologic hazard area.

987 [~~(56)~~] (58) "Public agency" means:

988 (a) the federal government;

989 (b) the state;

990 (c) a county, municipality, school district, local district, special service district, or other

991 political subdivision of the state; or

992 (d) a charter school.

993 [~~(57)~~] (59) "Public hearing" means a hearing at which members of the public are
994 provided a reasonable opportunity to comment on the subject of the hearing.

995 [~~(58)~~] (60) "Public meeting" means a meeting that is required to be open to the public
996 under Title 52, Chapter 4, Open and Public Meetings Act.

997 [~~(59)~~] (61) "Public street" means a public right-of-way, including a public highway,
998 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
999 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
1000 easement, or other public way.

1001 [~~(60)~~] (62) "Receiving zone" means an unincorporated area of a county that the county
1002 designates, by ordinance, as an area in which an owner of land may receive a transferable
1003 development right.

1004 [~~(61)~~] (63) "Record of survey map" means a map of a survey of land prepared in
1005 accordance with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

1006 [~~(62)~~] (64) "Residential facility for persons with a disability" means a residence:

1007 (a) in which more than one person with a disability resides; and

1008 (b) (i) which is licensed or certified by the Department of Health and Human Services
1009 under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

1010 (ii) which is licensed or certified by the Department of Health and Human Services
1011 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

1012 [~~(63)~~] (65) "Rules of order and procedure" means a set of rules that govern and
1013 prescribe in a public meeting:

1014 (a) parliamentary order and procedure;

1015 (b) ethical behavior; and

1016 (c) civil discourse.

1017 [~~(64)~~] (66) "Sanitary sewer authority" means the department, agency, or public entity

1018 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1019 wastewater systems.

1020 ~~[(65)]~~ (67) "Sending zone" means an unincorporated area of a county that the county
1021 designates, by ordinance, as an area from which an owner of land may transfer a transferable
1022 development right.

1023 ~~[(66)]~~ (68) "Site plan" means a document or map that may be required by a county
1024 during a preliminary review preceding the issuance of a building permit to demonstrate that an
1025 owner's or developer's proposed development activity meets a land use requirement.

1026 ~~[(67)]~~ (69) "Specified public agency" means:

- 1027 (a) the state;
1028 (b) a school district; or
1029 (c) a charter school.

1030 ~~[(68)]~~ (70) "Specified public utility" means an electrical corporation, gas corporation,
1031 or telephone corporation, as those terms are defined in Section 54-2-1.

1032 ~~[(69)]~~ (71) "State" includes any department, division, or agency of the state.

1033 ~~[(70)]~~ (72) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
1034 to be divided into two or more lots or other division of land for the purpose, whether
1035 immediate or future, for offer, sale, lease, or development either on the installment plan or
1036 upon any and all other plans, terms, and conditions.

1037 (b) "Subdivision" includes:

1038 (i) the division or development of land, whether by deed, metes and bounds
1039 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
1040 the division includes all or a portion of a parcel or lot; and

1041 (ii) except as provided in Subsection ~~[(70)(c)]~~ (72)(c), divisions of land for residential
1042 and nonresidential uses, including land used or to be used for commercial, agricultural, and
1043 industrial purposes.

1044 (c) "Subdivision" does not include:

1045 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1046 (ii) a boundary line agreement recorded with the county recorder's office between
1047 owners of adjoining parcels adjusting the mutual boundary in accordance with Section

1048 17-27a-523 if no new lot is created;

- 1049 (iii) a recorded document, executed by the owner of record:
- 1050 (A) revising the legal descriptions of multiple parcels into one legal description
- 1051 encompassing all such parcels; or
- 1052 (B) joining a lot to a parcel;
- 1053 (iv) a bona fide division or partition of land in a county other than a first class county
- 1054 for the purpose of siting, on one or more of the resulting separate parcels:
- 1055 (A) an electrical transmission line or a substation;
- 1056 (B) a natural gas pipeline or a regulation station; or
- 1057 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 1058 utility service regeneration, transformation, retransmission, or amplification facility;
- 1059 (v) a boundary line agreement between owners of adjoining subdivided properties
- 1060 adjusting the mutual lot line boundary in accordance with Sections [17-27a-523](#) and [17-27a-608](#)
- 1061 if:
- 1062 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 1063 (B) the adjustment will not violate any applicable land use ordinance;
- 1064 (vi) a bona fide division of land by deed or other instrument if the deed or other
- 1065 instrument states in writing that the division:
- 1066 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 1067 (B) does not confer any land use approvals; and
- 1068 (C) has not been approved by the land use authority;
- 1069 (vii) a parcel boundary adjustment;
- 1070 (viii) a lot line adjustment;
- 1071 (ix) a road, street, or highway dedication plat;
- 1072 (x) a deed or easement for a road, street, or highway purpose; or
- 1073 (xi) any other division of land authorized by law.
- 1074 ~~[(71)]~~ (73) "Subdivision amendment" means an amendment to a recorded subdivision
- 1075 in accordance with Section [17-27a-608](#) that:
- 1076 (a) vacates all or a portion of the subdivision;
- 1077 (b) alters the outside boundary of the subdivision;
- 1078 (c) changes the number of lots within the subdivision;
- 1079 (d) alters a public right-of-way, a public easement, or public infrastructure within the

1080 subdivision; or

1081 (e) alters a common area or other common amenity within the subdivision.

1082 [~~(72)~~] (74) "Substantial evidence" means evidence that:

1083 (a) is beyond a scintilla; and

1084 (b) a reasonable mind would accept as adequate to support a conclusion.

1085 [~~(73)~~] (75) "Suspect soil" means soil that has:

1086 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
1087 3% swell potential;

1088 (b) bedrock units with high shrink or swell susceptibility; or

1089 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
1090 commonly associated with dissolution and collapse features.

1091 [~~(74)~~] (76) "Therapeutic school" means a residential group living facility:

1092 (a) for four or more individuals who are not related to:

1093 (i) the owner of the facility; or

1094 (ii) the primary service provider of the facility;

1095 (b) that serves students who have a history of failing to function:

1096 (i) at home;

1097 (ii) in a public school; or

1098 (iii) in a nonresidential private school; and

1099 (c) that offers:

1100 (i) room and board; and

1101 (ii) an academic education integrated with:

1102 (A) specialized structure and supervision; or

1103 (B) services or treatment related to a disability, an emotional development, a
1104 behavioral development, a familial development, or a social development.

1105 [~~(75)~~] (77) "Transferable development right" means a right to develop and use land that
1106 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1107 land use rights from a designated sending zone to a designated receiving zone.

1108 [~~(76)~~] (78) "Unincorporated" means the area outside of the incorporated area of a
1109 municipality.

1110 [~~(77)~~] (79) "Water interest" means any right to the beneficial use of water, including:

- 1111 (a) each of the rights listed in Section 73-1-11; and
- 1112 (b) an ownership interest in the right to the beneficial use of water represented by:
- 1113 (i) a contract; or
- 1114 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 1115 [(78)] (80) "Zoning map" means a map, adopted as part of a land use ordinance, that
- 1116 depicts land use zones, overlays, or districts.

1117 Section 5. Section 17-27a-305 is amended to read:

1118 **17-27a-305. Other entities required to conform to county's land use ordinances --**
 1119 **Exceptions -- A school district, charter school, micro-education entity, and home-based**
 1120 **education entity -- Submission of development plan and schedule.**

1121 (1) (a) Each county, municipality, school district, charter school, local district, special
 1122 service district, and political subdivision of the state shall conform to any applicable land use
 1123 ordinance of any county when installing, constructing, operating, or otherwise using any area,
 1124 land, or building situated within a mountainous planning district or the unincorporated portion
 1125 of the county, as applicable.

1126 (b) In addition to any other remedies provided by law, when a county's land use
 1127 ordinance is violated or about to be violated by another political subdivision, that county may
 1128 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
 1129 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1130 (2) (a) Except as provided in Subsection (3), a school district or charter school is
 1131 subject to a county's land use ordinances.

1132 (b) (i) Notwithstanding Subsection (3), a county may:

1133 (A) subject a charter school to standards within each zone pertaining to setback, height,
 1134 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
 1135 staging; and

1136 (B) impose regulations upon the location of a project that are necessary to avoid
 1137 unreasonable risks to health or safety, as provided in Subsection (3)(f).

1138 (ii) The standards to which a county may subject a charter school under Subsection
 1139 (2)(b)(i) shall be objective standards only and may not be subjective.

1140 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
 1141 deny or withhold approval of a charter school's land use application is the charter school's

1142 failure to comply with a standard imposed under Subsection (2)(b)(i).

1143 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
1144 obligation to comply with a requirement of an applicable building or safety code to which it is
1145 otherwise obligated to comply.

1146 (3) A county may not:

1147 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1148 construction methods or materials, additional building inspections, county building codes,
1149 building use for educational purposes, or the placement or use of temporary classroom facilities
1150 on school property;

1151 (b) except as otherwise provided in this section, require a school district or charter
1152 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1153 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1154 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1155 required to connect an otherwise isolated school site to an existing roadway;

1156 (c) require a district or charter school to pay fees not authorized by this section;

1157 (d) provide for inspection of school construction or assess a fee or other charges for
1158 inspection, unless the school district or charter school is unable to provide for inspection by an
1159 inspector, other than the project architect or contractor, who is qualified under criteria
1160 established by the state superintendent;

1161 (e) require a school district or charter school to pay any impact fee for an improvement
1162 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

1163 (f) impose regulations upon the location of an educational facility except as necessary
1164 to avoid unreasonable risks to health or safety; or

1165 (g) for a land use or a structure owned or operated by a school district or charter school
1166 that is not an educational facility but is used in support of providing instruction to pupils,
1167 impose a regulation that:

1168 (i) is not imposed on a similar land use or structure in the zone in which the land use or
1169 structure is approved; or

1170 (ii) uses the tax exempt status of the school district or charter school as criteria for
1171 prohibiting or regulating the land use or location of the structure.

1172 (4) Subject to Section [53E-3-710](#), a school district or charter school shall coordinate

1173 the siting of a new school with the county in which the school is to be located, to:

1174 (a) avoid or mitigate existing and potential traffic hazards, including consideration of

1175 the impacts between the new school and future highways; and

1176 (b) maximize school, student, and site safety.

1177 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

1178 (a) provide a walk-through of school construction at no cost and at a time convenient to

1179 the district or charter school; and

1180 (b) provide recommendations based upon the walk-through.

1181 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

1182 (i) a county building inspector;

1183 (ii) (A) for a school district, a school district building inspector from that school

1184 district; or

1185 (B) for a charter school, a school district building inspector from the school district in

1186 which the charter school is located; or

1187 (iii) an independent, certified building inspector who is:

1188 (A) not an employee of the contractor;

1189 (B) approved by:

1190 (I) a county building inspector; or

1191 (II) (Aa) for a school district, a school district building inspector from that school

1192 district; or

1193 (Bb) for a charter school, a school district building inspector from the school district in

1194 which the charter school is located; and

1195 (C) licensed to perform the inspection that the inspector is requested to perform.

1196 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

1197 (c) If a school district or charter school uses a school district or independent building

1198 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to

1199 the state superintendent of public instruction and county building official, on a monthly basis

1200 during construction of the school building, a copy of each inspection certificate regarding the

1201 school building.

1202 (7) (a) A charter school, micro-education entity, or home-based education entity shall

1203 be considered a permitted use in all zoning districts within a county.

1204 (b) Each land use application for any approval required for a charter school, a
1205 micro-education entity, or a home-based education entity, including an application for a
1206 building permit, shall be processed on a first priority basis.

1207 (c) Parking requirements for a charter school or a micro-education entity may not
1208 exceed the minimum parking requirements for schools or other institutional public uses
1209 throughout the county.

1210 (d) If a county has designated zones for a sexually oriented business, or a business
1211 which sells alcohol, a charter school or micro-education entity may be prohibited from a
1212 location which would otherwise defeat the purpose for the zone unless the charter school or
1213 micro-education entity provides a waiver.

1214 (e) (i) A school district, micro-education entity, or [a] charter school may seek a
1215 certificate authorizing permanent occupancy of a school building from:

1216 (A) the state superintendent of public instruction, as provided in Subsection
1217 53E-3-706(3), if the school district, micro-education entity, or charter school used an
1218 independent building inspector for inspection of the school building; or

1219 (B) a county official with authority to issue the certificate, if the school district,
1220 micro-education entity, or charter school used a county building inspector for inspection of the
1221 school building.

1222 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1223 a school building if it used its own building inspector for inspection of the school building,
1224 subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

1225 (iii) A charter school or micro-education entity may seek a certificate authorizing
1226 permanent occupancy of a school building from a school district official with authority to issue
1227 the certificate, if the charter school or micro-education entity used a school district building
1228 inspector for inspection of the school building.

1229 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1230 of public instruction under Subsection 53E-3-706(3) or a school district official with authority
1231 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
1232 a certificate of occupancy.

1233 (f) (i) A micro-education entity may operate in a facility that meets Group E
1234 Occupancy requirements as defined by the International Building Code, as incorporated by

- 1235 Subsection 15A-2-103(1)(a).
- 1236 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):
- 1237 (A) may have up to 100 students in that facility; and
- 1238 (B) shall have enough space for at least 20 net square feet per student.
- 1239 (g) A micro-education entity may operate in a facility that is subject to and complies
- 1240 with the same occupancy requirements as a Class B Occupancy as defined by the International
- 1241 Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
- 1242 (i) the facility has a code-compliant fire alarm system and carbon monoxide detection
- 1243 system;
- 1244 (ii) (A) each classroom in the facility has an exit directly to the outside at the level of
- 1245 exit discharge; or
- 1246 (B) the structure has a code compliant fire sprinkler system;
- 1247 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
- 1248 are greater than 12,000 square feet; and
- 1249 (iv) the facility has enough space for at least 20 net square feet per student.
- 1250 (h) A home-based education entity is not subject to additional occupancy requirements
- 1251 beyond occupancy requirements that apply to a primary dwelling, except that the home-based
- 1252 education entity shall have enough space for at least 35 net square feet per student.
- 1253 (8) (a) A specified public agency intending to develop its land shall submit to the land
- 1254 use authority a development plan and schedule:
- 1255 (i) as early as practicable in the development process, but no later than the
- 1256 commencement of construction; and
- 1257 (ii) with sufficient detail to enable the land use authority to assess:
- 1258 (A) the specified public agency's compliance with applicable land use ordinances;
- 1259 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),
- 1260 (d), (e), and (g) caused by the development;
- 1261 (C) the amount of any applicable fee described in Section 17-27a-509;
- 1262 (D) any credit against an impact fee; and
- 1263 (E) the potential for waiving an impact fee.
- 1264 (b) The land use authority shall respond to a specified public agency's submission
- 1265 under Subsection (8)(a) with reasonable promptness in order to allow the specified public

1266 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
1267 process of preparing the budget for the development.

1268 (9) Nothing in this section may be construed to:

1269 (a) modify or supersede Section 17-27a-304; or

1270 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
1271 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
1272 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
1273 1990, 42 U.S.C. 12102, or any other provision of federal law.

1274 (10) Nothing in Subsection (7) prevents a political subdivision from:

1275 (a) requiring a micro-education entity or home-based education entity to comply with
1276 local zoning and land use regulations that do not conflict with this section, including:

1277 (i) parking;

1278 (ii) traffic; and

1279 (iii) hours of operation;

1280 (b) requiring a micro-education entity or home-based education entity to obtain a
1281 business license;

1282 (c) enacting county ordinances and regulations consistent with this section;

1283 (d) subjecting a micro-education entity to standards within each zone pertaining to
1284 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
1285 construction staging; and

1286 (e) imposing regulations on the location of a project that are necessary to avoid risks to
1287 health or safety.

1288 Section 6. Section **32B-1-102** is amended to read:

1289 **32B-1-102. Definitions.**

1290 As used in this title:

1291 (1) "Airport lounge" means a business location:

1292 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

1293 (b) that is located at an international airport.

1294 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
1295 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

1296 (3) "Alcoholic beverage" means the following:

- 1297 (a) beer; or
- 1298 (b) liquor.
- 1299 (4) (a) "Alcoholic product" means a product that:
- 1300 (i) contains at least .5% of alcohol by volume; and
- 1301 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 1302 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 1303 in an amount equal to or greater than .5% of alcohol by volume.
- 1304 (b) "Alcoholic product" includes an alcoholic beverage.
- 1305 (c) "Alcoholic product" does not include any of the following common items that
- 1306 otherwise come within the definition of an alcoholic product:
- 1307 (i) except as provided in Subsection (4)(d), an extract;
- 1308 (ii) vinegar;
- 1309 (iii) preserved nonintoxicating cider;
- 1310 (iv) essence;
- 1311 (v) tincture;
- 1312 (vi) food preparation; or
- 1313 (vii) an over-the-counter medicine.
- 1314 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 1315 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 1316 (5) "Alcohol training and education seminar" means a seminar that is:
- 1317 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- 1318 (b) described in Section [62A-15-401](#).
- 1319 (6) "Arena" means an enclosed building:
- 1320 (a) that is managed by:
- 1321 (i) the same person who owns the enclosed building;
- 1322 (ii) a person who has a majority interest in each person who owns or manages a space
- 1323 in the enclosed building; or
- 1324 (iii) a person who has authority to direct or exercise control over the management or
- 1325 policy of each person who owns or manages a space in the enclosed building;
- 1326 (b) that operates as a venue; and
- 1327 (c) that has an occupancy capacity of at least 12,500.

- 1328 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
1329 License Act, and Chapter 8c, Arena License Act.
- 1330 (8) "Banquet" means an event:
- 1331 (a) that is a private event or a privately sponsored event;
- 1332 (b) that is held at one or more designated locations approved by the commission in or
1333 on the premises of:
- 1334 (i) a hotel;
- 1335 (ii) a resort facility;
- 1336 (iii) a sports center;
- 1337 (iv) a convention center;
- 1338 (v) a performing arts facility; or
- 1339 (vi) an arena;
- 1340 (c) for which there is a contract:
- 1341 (i) between a person operating a facility listed in Subsection (8)(b) and another person
1342 that has common ownership of less than 20% with the person operating the facility; and
- 1343 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to
1344 provide an alcoholic product at the event; and
- 1345 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 1346 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter
1347 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- 1348 (b) "Bar establishment license" includes:
- 1349 (i) a dining club license;
- 1350 (ii) an equity license;
- 1351 (iii) a fraternal license; or
- 1352 (iv) a bar license.
- 1353 (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License
1354 Act, and Chapter 6, Part 4, Bar Establishment License.
- 1355 (11) (a) "Beer" means a product that:
- 1356 (i) contains:
- 1357 (A) at least .5% of alcohol by volume; and
- 1358 (B) no more than 5% of alcohol by volume or 4% by weight;

- 1359 (ii) is obtained by fermentation, infusion, or decoction of:
1360 (A) malt; or
1361 (B) a malt substitute; and
1362 (iii) is clearly marketed, labeled, and identified as:
1363 (A) beer;
1364 (B) ale;
1365 (C) porter;
1366 (D) stout;
1367 (E) lager;
1368 (F) a malt;
1369 (G) a malted beverage; or
1370 (H) seltzer.
- 1371 (b) "Beer" may contain:
1372 (i) hops extract; or
1373 (ii) caffeine, if the caffeine is a natural constituent of an added ingredient.
1374 (c) "Beer" does not include:
1375 (i) a flavored malt beverage;
1376 (ii) a product that contains alcohol derived from:
1377 (A) spirituous liquor; or
1378 (B) wine; or
1379 (iii) a product that contains an additive masking or altering a physiological effect of
1380 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1381 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter
1382 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1383 (13) "Beer retailer" means a business that:
1384 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
1385 for consumption on or off the business premises; and
1386 (b) is licensed as:
1387 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
1388 Retailer Local Authority; or
1389 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and

1390 Chapter 6, Part 7, On-Premise Beer Retailer License.

1391 (14) "Beer wholesaling license" means a license:

1392 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

1393 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more

1394 retail licensees or off-premise beer retailers.

1395 (15) "Billboard" means a public display used to advertise, including:

1396 (a) a light device;

1397 (b) a painting;

1398 (c) a drawing;

1399 (d) a poster;

1400 (e) a sign;

1401 (f) a signboard; or

1402 (g) a scoreboard.

1403 (16) "Brewer" means a person engaged in manufacturing:

1404 (a) beer;

1405 (b) heavy beer; or

1406 (c) a flavored malt beverage.

1407 (17) "Brewery manufacturing license" means a license issued in accordance with

1408 Chapter 11, Part 5, Brewery Manufacturing License.

1409 (18) "Certificate of approval" means a certificate of approval obtained from the

1410 department under Section [32B-11-201](#).

1411 (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by

1412 a bus company to a group of persons pursuant to a common purpose:

1413 (a) under a single contract;

1414 (b) at a fixed charge in accordance with the bus company's tariff; and

1415 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other

1416 motor vehicle, and a driver to travel together to one or more specified destinations.

1417 (20) "Church" means a building:

1418 (a) set apart for worship;

1419 (b) in which religious services are held;

1420 (c) with which clergy is associated; and

- 1421 (d) that is tax exempt under the laws of this state.
- 1422 (21) "Commission" means the Alcoholic Beverage Services Commission created in
1423 Section [32B-2-201](#).
- 1424 (22) "Commissioner" means a member of the commission.
- 1425 (23) "Community location" means:
- 1426 (a) a public or private school;
- 1427 (b) a church;
- 1428 (c) a public library;
- 1429 (d) a public playground; or
- 1430 (e) a public park.
- 1431 (24) "Community location governing authority" means:
- 1432 (a) the governing body of the community location; or
- 1433 (b) if the commission does not know who is the governing body of a community
1434 location, a person who appears to the commission to have been given on behalf of the
1435 community location the authority to prohibit an activity at the community location.
- 1436 (25) "Container" means a receptacle that contains an alcoholic product, including:
- 1437 (a) a bottle;
- 1438 (b) a vessel; or
- 1439 (c) a similar item.
- 1440 (26) "Controlled group of manufacturers" means as the commission defines by rule
1441 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1442 (27) "Convention center" means a facility that is:
- 1443 (a) in total at least 30,000 square feet; and
- 1444 (b) otherwise defined as a "convention center" by the commission by rule.
- 1445 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
1446 where seating is provided to a patron for service of food.
- 1447 (b) "Counter" does not include a dispensing structure.
- 1448 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1449 (30) "Department" means the Department of Alcoholic Beverage Services created in
1450 Section [32B-2-203](#).
- 1451 (31) "Department compliance officer" means an individual who is:

- 1452 (a) an auditor or inspector; and
- 1453 (b) employed by the department.
- 1454 (32) "Department sample" means liquor that is placed in the possession of the
- 1455 department for testing, analysis, and sampling.
- 1456 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 1457 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 1458 commission as a dining club license.
- 1459 (34) "Director," unless the context requires otherwise, means the director of the
- 1460 department.
- 1461 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 1462 title:
 - 1463 (a) against a person subject to administrative action; and
 - 1464 (b) that is brought on the basis of a violation of this title.
- 1465 (36) (a) Subject to Subsection (36)(b), "dispense" means:
 - 1466 (i) drawing an alcoholic product; and
 - 1467 (ii) using the alcoholic product at the location from which it was drawn to mix or
 - 1468 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 1469 (b) The definition of "dispense" in this Subsection (36) applies only to:
 - 1470 (i) a full-service restaurant license;
 - 1471 (ii) a limited-service restaurant license;
 - 1472 (iii) a reception center license;
 - 1473 (iv) a beer-only restaurant license;
 - 1474 (v) a bar license;
 - 1475 (vi) an on-premise beer retailer;
 - 1476 (vii) an airport lounge license;
 - 1477 (viii) an on-premise banquet license; and
 - 1478 (ix) a hospitality amenity license.
- 1479 (37) "Dispensing structure" means a surface or structure on a licensed premises:
 - 1480 (a) where an alcoholic product is dispensed; or
 - 1481 (b) from which an alcoholic product is served.
- 1482 (38) "Distillery manufacturing license" means a license issued in accordance with

1483 Chapter 11, Part 4, Distillery Manufacturing License.

1484 (39) "Distressed merchandise" means an alcoholic product in the possession of the
1485 department that is saleable, but for some reason is unappealing to the public.

1486 (40) "Equity license" means a license issued in accordance with Chapter 5, Retail
1487 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1488 commission as an equity license.

1489 (41) "Event permit" means:

1490 (a) a single event permit; or

1491 (b) a temporary beer event permit.

1492 (42) "Exempt license" means a license exempt under Section 32B-1-201 from being
1493 considered in determining the total number of retail licenses that the commission may issue at
1494 any time.

1495 (43) (a) "Flavored malt beverage" means a beverage:

1496 (i) that contains at least .5% alcohol by volume;

1497 (ii) for which the producer is required to file a formula for approval with the federal
1498 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1499 is treated by processing, filtration, or another method of manufacture that is not generally
1500 recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt
1501 liquor; and

1502 (iii) for which the producer is required to file a formula for approval with the federal
1503 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1504 includes an ingredient containing alcohol.

1505 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

1506 (44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
1507 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1508 commission as a fraternal license.

1509 (45) "Full-service restaurant license" means a license issued in accordance with
1510 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1511 (46) (a) "Furnish" means by any means to provide with, supply, or give an individual
1512 an alcoholic product, by sale or otherwise.

1513 (b) "Furnish" includes to:

- 1514 (i) serve;
- 1515 (ii) deliver; or
- 1516 (iii) otherwise make available.
- 1517 (47) "Guest" means an individual who meets the requirements of Subsection
- 1518 [32B-6-407](#)(9).
- 1519 (48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
- 1520 (49) "Health care practitioner" means:
- 1521 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 1522 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 1523 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1524 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 1525 Act;
- 1526 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 1527 Nurse Practice Act;
- 1528 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 1529 Practice Act;
- 1530 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 1531 Therapy Practice Act;
- 1532 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1533 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 1534 Professional Practice Act;
- 1535 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1536 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 1537 Practice Act;
- 1538 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 1539 Hygienist Practice Act; and
- 1540 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
- 1541 Assistant Act.
- 1542 (50) (a) "Heavy beer" means a product that:
- 1543 (i) contains more than 5% alcohol by volume; and
- 1544 (ii) is obtained by fermentation, infusion, or decoction of:

- 1545 (A) malt; or
- 1546 (B) a malt substitute.
- 1547 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 1548 (51) "Hospitality amenity license" means a license issued in accordance with Chapter
- 1549 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1550 (52) (a) "Hotel" means a commercial lodging establishment that:
- 1551 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
- 1552 (ii) is capable of hosting conventions, conferences, and food and beverage functions
- 1553 under a banquet contract; and
- 1554 (iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete
- 1555 meals;
- 1556 (B) has at least 1,000 square feet of function space consisting of meeting or dining
- 1557 rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or
- 1558 (C) if the establishment is located in a small or unincorporated locality, has an
- 1559 appropriate amount of function space consisting of meeting or dining rooms that can be
- 1560 reserved for private use under a banquet contract, as determined by the commission.
- 1561 (b) "Hotel" includes a commercial lodging establishment that:
- 1562 (i) meets the requirements under Subsection (52)(a); and
- 1563 (ii) has one or more privately owned dwelling units.
- 1564 (53) "Hotel license" means a license issued in accordance with Chapter 5, Retail
- 1565 License Act, and Chapter 8b, Hotel License Act.
- 1566 (54) "Identification card" means an identification card issued under Title 53, Chapter 3,
- 1567 Part 8, Identification Card Act.
- 1568 (55) "Industry representative" means an individual who is compensated by salary,
- 1569 commission, or other means for representing and selling an alcoholic product of a
- 1570 manufacturer, supplier, or importer of liquor.
- 1571 (56) "Industry representative sample" means liquor that is placed in the possession of
- 1572 the department for testing, analysis, and sampling by a local industry representative on the
- 1573 premises of the department to educate the local industry representative of the quality and
- 1574 characteristics of the product.
- 1575 (57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing

1576 of an alcoholic product is prohibited by:

1577 (a) law; or

1578 (b) court order.

1579 (58) "International airport" means an airport:

1580 (a) with a United States Customs and Border Protection office on the premises of the
1581 airport; and

1582 (b) at which international flights may enter and depart.

1583 (59) "Intoxicated" means that a person:

1584 (a) is significantly impaired as to the person's mental or physical functions as a result of
1585 the use of:

1586 (i) an alcoholic product;

1587 (ii) a controlled substance;

1588 (iii) a substance having the property of releasing toxic vapors; or

1589 (iv) a combination of Subsections (59)(a)(i) through (iii); and

1590 (b) exhibits plain and easily observed outward manifestations of behavior or physical
1591 signs produced by the overconsumption of an alcoholic product.

1592 (60) "Investigator" means an individual who is:

1593 (a) a department compliance officer; or

1594 (b) a nondepartment enforcement officer.

1595 (61) "License" means:

1596 (a) a retail license;

1597 (b) a sublicense;

1598 (c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer
1599 State License;

1600 (d) a license issued in accordance with Chapter 11, Manufacturing and Related
1601 Licenses Act;

1602 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

1603 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

1604 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

1605 (62) "Licensee" means a person who holds a license.

1606 (63) "Limited-service restaurant license" means a license issued in accordance with

1607 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

1608 (64) "Limousine" means a motor vehicle licensed by the state or a local authority, other
1609 than a bus or taxicab:

1610 (a) in which the driver and a passenger are separated by a partition, glass, or other
1611 barrier;

1612 (b) that is provided by a business entity to one or more individuals at a fixed charge in
1613 accordance with the business entity's tariff; and

1614 (c) to give the one or more individuals the exclusive use of the limousine and a driver
1615 to travel to one or more specified destinations.

1616 (65) (a) (i) "Liquor" means a liquid that:

1617 (A) is:

1618 (I) alcohol;

1619 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

1620 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

1621 (IV) other drink or drinkable liquid; and

1622 (B) (I) contains at least .5% alcohol by volume; and

1623 (II) is suitable to use for beverage purposes.

1624 (ii) "Liquor" includes:

1625 (A) heavy beer;

1626 (B) wine; and

1627 (C) a flavored malt beverage.

1628 (b) "Liquor" does not include beer.

1629 (66) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).

1630 (67) "Liquor transport license" means a license issued in accordance with Chapter 17,
1631 Liquor Transport License Act.

1632 (68) "Liquor warehousing license" means a license that is issued:

1633 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

1634 (b) to a person, other than a licensed manufacturer, who engages in the importation for
1635 storage, sale, or distribution of liquor regardless of amount.

1636 (69) "Local authority" means:

1637 (a) for premises that are located in an unincorporated area of a county, the governing

1638 body of a county;

1639 (b) for premises that are located in an incorporated city, town, or metro township, the
1640 governing body of the city, town, or metro township; or

1641 (c) for premises that are located in a project area as defined in Section 63H-1-102 and
1642 in a project area plan adopted by the Military Installation Development Authority under Title
1643 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
1644 Development Authority.

1645 (70) "Lounge or bar area" is as defined by rule made by the commission.

1646 (71) "Malt substitute" means:

1647 (a) rice;

1648 (b) grain;

1649 (c) bran;

1650 (d) glucose;

1651 (e) sugar; or

1652 (f) molasses.

1653 (72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
1654 otherwise make an alcoholic product for personal use or for sale or distribution to others.

1655 (73) "Member" means an individual who, after paying regular dues, has full privileges
1656 in an equity licensee or fraternal licensee.

1657 (74) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
1658 or homeport facility for a ship:

1659 (i) (A) under the control of the United States Department of Defense; or

1660 (B) of the National Guard;

1661 (ii) that is located within the state; and

1662 (iii) including a leased facility.

1663 (b) "Military installation" does not include a facility used primarily for:

1664 (i) civil works;

1665 (ii) a rivers and harbors project; or

1666 (iii) a flood control project.

1667 (75) "Minibar" means an area of a hotel guest room where one or more alcoholic
1668 products are kept and offered for self-service sale or consumption.

- 1669 (76) "Minor" means an individual under 21 years old.
- 1670 (77) "Nondepartment enforcement agency" means an agency that:
- 1671 (a) (i) is a state agency other than the department; or
- 1672 (ii) is an agency of a county, city, town, or metro township; and
- 1673 (b) has a responsibility to enforce one or more provisions of this title.
- 1674 (78) "Nondepartment enforcement officer" means an individual who is:
- 1675 (a) a peace officer, examiner, or investigator; and
- 1676 (b) employed by a nondepartment enforcement agency.
- 1677 (79) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1678 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 1679 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 1680 premises.
- 1681 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1682 (80) "Off-premise beer retailer state license" means a state license issued in accordance
- 1683 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.
- 1684 (81) "On-premise banquet license" means a license issued in accordance with Chapter
- 1685 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 1686 (82) "On-premise beer retailer" means a beer retailer who is:
- 1687 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 1688 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 1689 Retailer License; and
- 1690 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 1691 premises:
- 1692 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 1693 premises; and
- 1694 (ii) on and after March 1, 2012, operating:
- 1695 (A) as a tavern; or
- 1696 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 1697 (83) "Opaque" means impenetrable to sight.
- 1698 (84) "Package agency" means a retail liquor location operated:
- 1699 (a) under an agreement with the department; and

- 1700 (b) by a person:
- 1701 (i) other than the state; and
- 1702 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 1703 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 1704 (85) "Package agent" means a person who holds a package agency.
- 1705 (86) "Patron" means an individual to whom food, beverages, or services are sold,
- 1706 offered for sale, or furnished, or who consumes an alcoholic product including:
- 1707 (a) a customer;
- 1708 (b) a member;
- 1709 (c) a guest;
- 1710 (d) an attendee of a banquet or event;
- 1711 (e) an individual who receives room service;
- 1712 (f) a resident of a resort; or
- 1713 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
- 1714 license.
- 1715 (87) (a) "Performing arts facility" means a multi-use performance space that:
- 1716 (i) is primarily used to present various types of performing arts, including dance,
- 1717 music, and theater;
- 1718 (ii) contains over 2,500 seats;
- 1719 (iii) is owned and operated by a governmental entity; and
- 1720 (iv) is located in a city of the first class.
- 1721 (b) "Performing arts facility" does not include a space that is used to present sporting
- 1722 events or sporting competitions.
- 1723 (88) "Permittee" means a person issued a permit under:
- 1724 (a) Chapter 9, Event Permit Act; or
- 1725 (b) Chapter 10, Special Use Permit Act.
- 1726 (89) "Person subject to administrative action" means:
- 1727 (a) a licensee;
- 1728 (b) a permittee;
- 1729 (c) a manufacturer;
- 1730 (d) a supplier;

- 1731 (e) an importer;
- 1732 (f) one of the following holding a certificate of approval:
 - 1733 (i) an out-of-state brewer;
 - 1734 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 1735 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
 - 1736 (g) staff of:
 - 1737 (i) a person listed in Subsections (89)(a) through (f); or
 - 1738 (ii) a package agent.
- 1739 (90) "Premises" means a building, enclosure, or room used in connection with the
- 1740 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1741 unless otherwise defined in this title or rules made by the commission.
- 1742 (91) "Prescription" means an order issued by a health care practitioner when:
 - 1743 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
 - 1744 to prescribe a controlled substance, other drug, or device for medicinal purposes;
 - 1745 (b) the order is made in the course of that health care practitioner's professional
 - 1746 practice; and
 - 1747 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1748 (92) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1749 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1750 (93) "Principal license" means:
 - 1751 (a) a resort license;
 - 1752 (b) a hotel license; or
 - 1753 (c) an arena license.
- 1754 (94) (a) "Private event" means a specific social, business, or recreational event:
 - 1755 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
 - 1756 group; and
 - 1757 (ii) that is limited in attendance to people who are specifically designated and their
 - 1758 guests.
 - 1759 (b) "Private event" does not include an event to which the general public is invited,
 - 1760 whether for an admission fee or not.
- 1761 (95) "Privately sponsored event" means a specific social, business, or recreational

1762 event:

1763 (a) that is held in or on the premises of an on-premise banquet licensee; and

1764 (b) to which entry is restricted by an admission fee.

1765 (96) (a) "Proof of age" means:

1766 (i) an identification card;

1767 (ii) an identification that:

1768 (A) is substantially similar to an identification card;

1769 (B) is issued in accordance with the laws of a state other than Utah in which the

1770 identification is issued;

1771 (C) includes date of birth; and

1772 (D) has a picture affixed;

1773 (iii) a valid driver license certificate that:

1774 (A) includes date of birth;

1775 (B) has a picture affixed; and

1776 (C) is issued:

1777 (I) under Title 53, Chapter 3, Uniform Driver License Act;

1778 (II) in accordance with the laws of the state in which it is issued; or

1779 (III) in accordance with federal law by the United States Department of State;

1780 (iv) a military identification card that:

1781 (A) includes date of birth; and

1782 (B) has a picture affixed; or

1783 (v) a valid passport.

1784 (b) "Proof of age" does not include a driving privilege card issued in accordance with

1785 Section [53-3-207](#).

1786 (97) "Provisions applicable to a sublicense" means:

1787 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service

1788 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

1789 (b) for a limited-service restaurant sublicense, the provisions applicable to a

1790 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

1791 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment

1792 license under Chapter 6, Part 4, Bar Establishment License;

1793 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
1794 banquet license under Chapter 6, Part 6, On-Premise Banquet License;

1795 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
1796 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

1797 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
1798 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

1799 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
1800 license under Chapter 6, Part 10, Hospitality Amenity License; and

1801 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,
1802 Part 2, Spa Sublicense.

1803 (98) (a) "Public building" means a building or permanent structure that is:

1804 (i) owned or leased by:

1805 (A) the state; or

1806 (B) a local government entity; and

1807 (ii) used for:

1808 (A) public education;

1809 (B) transacting public business; or

1810 (C) regularly conducting government activities.

1811 (b) "Public building" does not include a building owned by the state or a local
1812 government entity when the building is used by a person, in whole or in part, for a proprietary
1813 function.

1814 (99) "Public conveyance" means a conveyance that the public or a portion of the public
1815 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or
1816 other public conveyance.

1817 (100) "Reception center" means a business that:

1818 (a) operates facilities that are at least 5,000 square feet; and

1819 (b) has as its primary purpose the leasing of the facilities described in Subsection

1820 (100)(a) to a third party for the third party's event.

1821 (101) "Reception center license" means a license issued in accordance with Chapter 5,
1822 Retail License Act, and Chapter 6, Part 8, Reception Center License.

1823 (102) (a) "Record" means information that is:

- 1824 (i) inscribed on a tangible medium; or
- 1825 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 1826 (b) "Record" includes:
- 1827 (i) a book;
- 1828 (ii) a book of account;
- 1829 (iii) a paper;
- 1830 (iv) a contract;
- 1831 (v) an agreement;
- 1832 (vi) a document; or
- 1833 (vii) a recording in any medium.
- 1834 (103) "Residence" means a person's principal place of abode within Utah.
- 1835 (104) "Resident," in relation to a resort, means the same as that term is defined in
- 1836 Section [32B-8-102](#).
- 1837 (105) "Resort" means the same as that term is defined in Section [32B-8-102](#).
- 1838 (106) "Resort facility" is as defined by the commission by rule.
- 1839 (107) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 1840 License Act, and Chapter 8, Resort License Act.
- 1841 (108) "Responsible alcohol service plan" means a written set of policies and
- 1842 procedures that outlines measures to prevent employees from:
- 1843 (a) over-serving alcoholic beverages to customers;
- 1844 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
- 1845 intoxicated; and
- 1846 (c) serving alcoholic beverages to minors.
- 1847 (109) "Restaurant" means a business location:
- 1848 (a) at which a variety of foods are prepared;
- 1849 (b) at which complete meals are served; and
- 1850 (c) that is engaged primarily in serving meals.
- 1851 (110) "Restaurant license" means one of the following licenses issued under this title:
- 1852 (a) a full-service restaurant license;
- 1853 (b) a limited-service restaurant license; or
- 1854 (c) a beer-only restaurant license.

1855 (111) "Retail license" means one of the following licenses issued under this title:

- 1856 (a) a full-service restaurant license;
- 1857 (b) a master full-service restaurant license;
- 1858 (c) a limited-service restaurant license;
- 1859 (d) a master limited-service restaurant license;
- 1860 (e) a bar establishment license;
- 1861 (f) an airport lounge license;
- 1862 (g) an on-premise banquet license;
- 1863 (h) an on-premise beer license;
- 1864 (i) a reception center license;
- 1865 (j) a beer-only restaurant license;
- 1866 (k) a hospitality amenity license;
- 1867 (l) a resort license;
- 1868 (m) a hotel license; or
- 1869 (n) an arena license.

1870 (112) "Room service" means furnishing an alcoholic product to a person in a guest
1871 room or privately owned dwelling unit of a:

- 1872 (a) hotel; or
- 1873 (b) resort facility.

1874 (113) (a) "School" means a building in which any part is used for more than three
1875 hours each weekday during a school year as a public or private:

- 1876 (i) elementary school;
- 1877 (ii) secondary school; or
- 1878 (iii) kindergarten.

1879 (b) "School" does not include:

- 1880 (i) a nursery school;
- 1881 (ii) a day care center;
- 1882 (iii) a trade and technical school;
- 1883 (iv) a micro-education entity as defined in Section [53G-6-201](#);
- 1884 (v) a home-based education entity as defined in Section [53G-6-201](#);
- 1885 [~~(iv)~~] (vi) a preschool; or

1886 [~~(v)~~] (vii) a home school.

1887 (114) "Secondary flavoring ingredient" means any spirituous liquor added to a
1888 beverage for additional flavoring that is different in type, flavor, or brand from the primary
1889 spirituous liquor in the beverage.

1890 (115) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
1891 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
1892 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
1893 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
1894 made by the commission.

1895 (116) "Serve" means to place an alcoholic product before an individual.

1896 (117) "Sexually oriented entertainer" means a person who while in a state of
1897 seminudity appears at or performs:

1898 (a) for the entertainment of one or more patrons;

1899 (b) on the premises of:

1900 (i) a bar licensee; or

1901 (ii) a tavern;

1902 (c) on behalf of or at the request of the licensee described in Subsection (117)(b);

1903 (d) on a contractual or voluntary basis; and

1904 (e) whether or not the person is designated as:

1905 (i) an employee;

1906 (ii) an independent contractor;

1907 (iii) an agent of the licensee; or

1908 (iv) a different type of classification.

1909 (118) "Shared seating area" means the licensed premises of two or more restaurant
1910 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in
1911 accordance with Subsection [32B-5-207\(3\)](#).

1912 (119) "Single event permit" means a permit issued in accordance with Chapter 9, Part
1913 3, Single Event Permit.

1914 (120) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
1915 beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

1916 (a) if the brewer is part of a controlled group of manufacturers, including the combined

- 1917 volume totals of production for all breweries that constitute the controlled group of
1918 manufacturers; and
- 1919 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
- 1920 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
1921 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1922 Rulemaking Act; and
- 1923 (ii) does not sell for consumption as, or in, a beverage.
- 1924 (121) "Small or unincorporated locality" means:
- 1925 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
- 1926 (b) a town, as classified under Section 10-2-301; or
- 1927 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified
1928 under Section 17-50-501.
- 1929 (122) "Spa sublicense" means a sublicense:
- 1930 (a) to a resort license or hotel license; and
- 1931 (b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.
- 1932 (123) "Special use permit" means a permit issued in accordance with Chapter 10,
1933 Special Use Permit Act.
- 1934 (124) (a) "Spirituous liquor" means liquor that is distilled.
- 1935 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
1936 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 1937 (125) "Sports center" is as defined by the commission by rule.
- 1938 (126) (a) "Staff" means an individual who engages in activity governed by this title:
- 1939 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
1940 holder;
- 1941 (ii) at the request of the business, including a package agent, licensee, permittee, or
1942 certificate holder; or
- 1943 (iii) under the authority of the business, including a package agent, licensee, permittee,
1944 or certificate holder.
- 1945 (b) "Staff" includes:
- 1946 (i) an officer;
- 1947 (ii) a director;

- 1948 (iii) an employee;
- 1949 (iv) personnel management;
- 1950 (v) an agent of the licensee, including a managing agent;
- 1951 (vi) an operator; or
- 1952 (vii) a representative.
- 1953 (127) "State of nudity" means:
- 1954 (a) the appearance of:
 - 1955 (i) the nipple or areola of a female human breast;
 - 1956 (ii) a human genital;
 - 1957 (iii) a human pubic area; or
 - 1958 (iv) a human anus; or
- 1959 (b) a state of dress that fails to opaquely cover:
 - 1960 (i) the nipple or areola of a female human breast;
 - 1961 (ii) a human genital;
 - 1962 (iii) a human pubic area; or
 - 1963 (iv) a human anus.
- 1964 (128) "State of seminudity" means a state of dress in which opaque clothing covers no
- 1965 more than:
 - 1966 (a) the nipple and areola of the female human breast in a shape and color other than the
 - 1967 natural shape and color of the nipple and areola; and
 - 1968 (b) the human genitals, pubic area, and anus:
 - 1969 (i) with no less than the following at its widest point:
 - 1970 (A) four inches coverage width in the front of the human body; and
 - 1971 (B) five inches coverage width in the back of the human body; and
 - 1972 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 1973 (129) (a) "State store" means a facility for the sale of packaged liquor:
 - 1974 (i) located on premises owned or leased by the state; and
 - 1975 (ii) operated by a state employee.
- 1976 (b) "State store" does not include:
 - 1977 (i) a package agency;
 - 1978 (ii) a licensee; or

- 1979 (iii) a permittee.
- 1980 (130) (a) "Storage area" means an area on licensed premises where the licensee stores
1981 an alcoholic product.
- 1982 (b) "Store" means to place or maintain in a location an alcoholic product.
- 1983 (131) "Sublicense" means:
- 1984 (a) any of the following licenses issued as a subordinate license to, and contingent on
1985 the issuance of, a principal license:
- 1986 (i) a full-service restaurant license;
- 1987 (ii) a limited-service restaurant license;
- 1988 (iii) a bar establishment license;
- 1989 (iv) an on-premise banquet license;
- 1990 (v) an on-premise beer retailer license;
- 1991 (vi) a beer-only restaurant license; or
- 1992 (vii) a hospitality amenity license; or
- 1993 (b) a spa sublicense.
- 1994 (132) "Supplier" means a person who sells an alcoholic product to the department.
- 1995 (133) "Tavern" means an on-premise beer retailer who is:
- 1996 (a) issued a license by the commission in accordance with Chapter 5, Retail License
1997 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- 1998 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
1999 On-Premise Beer Retailer License.
- 2000 (134) "Temporary beer event permit" means a permit issued in accordance with
2001 Chapter 9, Part 4, Temporary Beer Event Permit.
- 2002 (135) "Temporary domicile" means the principal place of abode within Utah of a
2003 person who does not have a present intention to continue residency within Utah permanently or
2004 indefinitely.
- 2005 (136) "Translucent" means a substance that allows light to pass through, but does not
2006 allow an object or person to be seen through the substance.
- 2007 (137) "Unsaleable liquor merchandise" means a container that:
- 2008 (a) is unsaleable because the container is:
- 2009 (i) unlabeled;

2010 (ii) leaky;

2011 (iii) damaged;

2012 (iv) difficult to open; or

2013 (v) partly filled;

2014 (b) (i) has faded labels or defective caps or corks;

2015 (ii) has contents that are:

2016 (A) cloudy;

2017 (B) spoiled; or

2018 (C) chemically determined to be impure; or

2019 (iii) contains:

2020 (A) sediment; or

2021 (B) a foreign substance; or

2022 (c) is otherwise considered by the department as unfit for sale.

2023 (138) (a) "Wine" means an alcoholic product obtained by the fermentation of the

2024 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not

2025 another ingredient is added.

2026 (b) "Wine" includes:

2027 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.

2028 4.10; and

2029 (ii) hard cider.

2030 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided

2031 in this title.

2032 (139) "Winery manufacturing license" means a license issued in accordance with

2033 Chapter 11, Part 3, Winery Manufacturing License.

2034 Section 7. Section **53G-6-201** is amended to read:

2035 **53G-6-201. Definitions.**

2036 As used in this part:

2037 (1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class

2038 or class period to attend a class or class period.

2039 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence

2040 for the sake of a truancy.

2041 (2) "Education cooperative" means two or more families jointly providing education
2042 services to school-aged children.

2043 ~~[(2)]~~ (3) "Educational neglect" means the same as that term is defined in Section
2044 [80-1-102](#).

2045 (4) "Extracurricular lessons" means the provision of educational services or
2046 experiences beyond traditional academic instruction.

2047 (5) (a) "Home-based education entity" means an individual or association of
2048 individuals that, for compensation, provides kindergarten through grade 12 education services
2049 to 16 or fewer students from an individual's residential dwelling, accessory dwelling unit, or
2050 residential property.

2051 (b) "Home-based education entity" includes:

2052 (i) a tutoring service;

2053 (ii) an education cooperative; and

2054 (iii) an entity that provides extracurricular lessons.

2055 (c) "Home-based education entity" does not include:

2056 (i) a daycare; or

2057 (ii) a family that has filed an affidavit for a child under Section [53G-6-204](#).

2058 (6) "Instructor" means an individual who teaches a student as part of a home-based
2059 education entity or micro-education entity.

2060 (7) (a) "Micro-education entity" means a person or association of persons that, for
2061 compensation, provides kindergarten through grade 12 education services to 100 students or
2062 fewer.

2063 (b) "Micro-education entity" does not include:

2064 (i) a daycare;

2065 (ii) a family that has filed an affidavit for a child pursuant to Section [53G-6-204](#);

2066 (iii) a home-based education entity;

2067 (iv) a private school; or

2068 (v) a school within the public education system.

2069 ~~[(3)]~~ (8) "Minor" means an individual who is under 18 years old.

2070 ~~[(4)]~~ (9) "Parent" includes:

2071 (a) a custodial parent of the minor;

2072 (b) a legally appointed guardian of a minor; or
2073 (c) any other person purporting to exercise any authority over the minor which could be
2074 exercised by a person described in Subsection [~~(4)~~] (9)(a) or (b).

2075 [~~(5)~~] (10) "School day" means the portion of a day that school is in session in which a
2076 school-age child is required to be in school for purposes of receiving instruction.

2077 [~~(6)~~] (11) "School year" means the period of time designated by a local school board or
2078 charter school governing board as the school year for the school where the school-age child:

2079 (a) is enrolled; or
2080 (b) should be enrolled, if the school-age child is not enrolled in school.

2081 [~~(7)~~] (12) "School-age child" means a minor who:

2082 (a) is at least six years old but younger than 18 years old; and
2083 (b) is not emancipated.

2084 [~~(8)~~] (13) (a) "Truant" means a condition in which a school-age child, without a valid
2085 excuse, and subject to Subsection [~~(8)~~] (13)(b), is absent for at least:

2086 (i) half of the school day; or
2087 (ii) if the school-age child is enrolled in a learner verified program, as that term is
2088 defined by the state board, the relevant amount of time under the LEA's policy regarding the
2089 LEA's continuing enrollment measure as it relates to truancy.

2090 (b) A school-age child may not be considered truant under this part more than one time
2091 during one day.

2092 [~~(9)~~] (14) "Truant minor" means a school-age child who:

2093 (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and
2094 (b) is truant.

2095 [~~(10)~~] (15) (a) "Valid excuse" means:

2096 (i) an illness, which may be either mental or physical, regardless of whether the
2097 school-age child or parent provides documentation from a medical professional;
2098 (ii) mental or behavioral health of the school-age child;
2099 (iii) a family death;
2100 (iv) an approved school activity;
2101 (v) an absence permitted by a school-age child's:
2102 (A) individualized education program; or

2103 (B) Section 504 accommodation plan;
2104 (vi) an absence permitted in accordance with Subsection 53G-6-803(5); or
2105 (vii) any other excuse established as valid by a local school board, charter school
2106 governing board, or school district.

2107 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason
2108 other than a reason described in Subsections ~~[(10)(a)(i)]~~ (15)(a)(i) through (vi), unless
2109 specifically permitted by the local school board, charter school governing board, or school
2110 district under Subsection ~~[(10)(a)(vi)]~~ (15)(a)(vi).

2111 Section 8. Section 53G-6-204 is amended to read:

2112 **53G-6-204. School-age children exempt from school attendance.**

2113 (1) (a) A local school board or charter school governing board may excuse a school-age
2114 child from attendance for any of the following reasons:

2115 (i) a school-age child over ~~[age]~~ 16 years old may receive a partial release from school
2116 to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

2117 (ii) on an annual basis, a school-age child may receive a full release from attending a
2118 public, regularly established private, or part-time school or class if:

2119 (A) the school-age child has already completed the work required for graduation from
2120 high school;

2121 (B) the school-age child is in a physical or mental condition, certified by a competent
2122 physician if required by the local school board or charter school governing board, which
2123 renders attendance inexpedient and impracticable;

2124 (C) proper influences and adequate opportunities for education are provided in
2125 connection with the school-age child's employment; or

2126 (D) the district superintendent or charter school governing board has determined that a
2127 school-age child over the age of 16 is unable to profit from attendance at school because of
2128 inability or a continuing negative attitude toward school regulations and discipline.

2129 (b) A school-age child receiving a partial release from school under Subsection
2130 (1)(a)(i) is required to attend:

2131 (i) school part time as prescribed by the local school board or charter school governing
2132 board; or

2133 (ii) a home school part time.

2134 (c) In each case, evidence of reasons for granting an exemption under this Subsection
2135 (1) must be sufficient to satisfy the local school board or charter school governing board.

2136 (d) A local school board or charter school governing board that excuses a school-age
2137 child from attendance as provided by this Subsection (1) shall issue a certificate that the child
2138 is excused from attendance during the time specified on the certificate.

2139 (2) (a) A local school board shall excuse a school-age child from attendance, if the
2140 school-age child's parent files a signed and notarized affidavit with the school-age child's
2141 school district of residence, as defined in Section [53G-6-302](#), that:

2142 (i) the school-age child will attend a home school, micro-education entity, or
2143 home-based education entity; and

2144 (ii) the parent assumes sole responsibility for the education of the school-age child,
2145 except to the extent the school-age child is dual enrolled in a public school as provided in
2146 Section [53G-6-702](#).

2147 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall
2148 remain in effect as long as:

2149 (i) the school-age child attends a home school, micro-education entity, or home-based
2150 education entity; and

2151 (ii) the school district where the affidavit was filed remains the school-age child's
2152 district of residence.

2153 (c) A parent or instructor of a school-age child who attends a home school,
2154 micro-education entity, or home-based education entity is solely responsible for:

2155 (i) the selection of instructional materials and textbooks;

2156 (ii) the time, place, and method of instruction; and

2157 (iii) the evaluation of the home school instruction.

2158 (d) A local school board may not:

2159 (i) require a parent of a school-age child who attends a home school, micro-education
2160 entity, or home-based education entity to maintain records of instruction or attendance;

2161 (ii) require credentials for individuals providing home school, micro-education entity,
2162 or home-based education entity instruction;

2163 (iii) inspect home school, micro-education entity, or home-based education entity
2164 facilities, except as provided in Section [53G-6-212](#); or

2165 (iv) require standardized or other testing of home school, micro-education entity, or
2166 home-based education entity students.

2167 (e) Upon the request of a parent, a local school board shall identify the knowledge,
2168 skills, and competencies a student is recommended to attain by grade level and subject area to
2169 assist the parent or instructor in achieving college and career readiness through [~~home~~
2170 ~~schooling~~] schooling at a home school, micro-education entity, or home-based education entity.

2171 (f) A local school board that excuses a school-age child from attendance as provided by
2172 this Subsection (2) shall annually issue a certificate stating that the school-age child is excused
2173 from attendance for the specified school year.

2174 (g) A local school board shall issue a certificate excusing a school-age child from
2175 attendance:

2176 (i) within 30 days after receipt of a signed and notarized affidavit filed by the
2177 school-age child's parent pursuant to this Subsection (2); and

2178 (ii) on or before August 1 each year thereafter unless:

2179 (A) the school-age child enrolls in a school within the school district;

2180 (B) the school-age child's parent notifies the school district that the school-age child no
2181 longer attends a home school; or

2182 (C) the school-age child's parent notifies the school district that the school-age child's
2183 school district of residence has changed.

2184 (3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a)
2185 is exempt from the application of Subsections [53G-6-202\(2\)](#), (5), and (6).

2186 (4) (a) Nothing in this section may be construed to prohibit or discourage voluntary
2187 cooperation, resource sharing, or testing opportunities between a school or school district and a
2188 parent of a child attending a home school.

2189 (b) The exemptions in this section apply regardless of whether:

2190 (i) a parent provides education instruction to the parent's child alone or in cooperation
2191 with other parents similarly exempted under this section; or

2192 (ii) the parent makes payment for educational services the parent's child receives.

2193 Section 9. Section **53G-6-212** is enacted to read:

2194 **53G-6-212. Micro-education entity and home-based education entity waivers and**
2195 **exemptions.**

2196 (1) A home-based education entity or a micro-education entity:
2197 (a) may form to provide education services to school-aged children; and
2198 (b) is not an LEA, a public school, or otherwise a part of the public education system.
2199 (2) A local health department may not require a micro-education entity or a
2200 home-based education entity to obtain a food establishment permit or undergo an inspection in
2201 order to prepare or provide food if staff of the micro-education entity or home-based education
2202 entity do not prepare and serve food.

2203 Section 10. Section **53G-6-702** is amended to read:

2204 **53G-6-702. Dual enrollment.**

2205 (1) As used in this section, "minor" means the same as that term is defined in Section
2206 **53G-6-201.**

2207 (2) A person having control of a minor who is enrolled in a regularly established
2208 private school, micro-education entity, home-based education entity, or a home school may
2209 also enroll the minor in a public school for dual enrollment purposes.

2210 (3) The minor may participate in any academic activity in the public school available to
2211 students in the minor's grade or age group, subject to compliance with the same rules and
2212 requirements that apply to a full-time student's participation in the activity.

2213 (4) (a) A student enrolled in a dual enrollment program in a district school is
2214 considered a student of the district in which the district school of attendance is located for
2215 purposes of state funding to the extent of the student's participation in the district school
2216 programs.

2217 (b) A student enrolled in a dual enrollment program in a charter school is considered a
2218 student of the charter school for purposes of state funding to the extent of the student's
2219 participation in the charter school programs.

2220 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2221 state board shall make rules for purposes of dual enrollment to govern and regulate the
2222 transferability of credits toward graduation that are earned in a private school, micro-education
2223 entity, home-based education entity, or home school.

2224 Section 11. Section **53G-6-703** is amended to read:

2225 **53G-6-703. Private school, micro-education entity, home-based education entity,**
2226 **and home school students' participation in extracurricular activities in a public school.**

2227 (1) As used in this section:

2228 (a) "Academic eligibility requirements" means the academic eligibility requirements
2229 that a home school student is required to meet to participate in an extracurricular activity in a
2230 public school.

2231 (b) "Minor" means the same as that term is defined in Section 53G-6-201.

2232 (c) "Parent" means the same as that term is defined in Section 53G-6-201.

2233 (d) "Principal" means the principal of the school in which a home school student
2234 participates or intends to participate in an extracurricular activity.

2235 (2) (a) A minor who is enrolled in a private school, micro-education entity,
2236 home-based education entity, or a home school shall be eligible to participate in an
2237 extracurricular activity at a public school as provided in this section.

2238 (b) A private school or micro-education entity student may only participate in an
2239 extracurricular activity at a public school that is not offered by the student's private school or
2240 micro-education entity.

2241 (c) Except as provided in Subsection (2)(d), [~~a private school student or a home school~~
2242 ~~student may only participate in an extracurricular activity at:~~] a student of a private school,
2243 micro-education entity, home-based education entity, or home school may only participate in
2244 an extracurricular activity at:

2245 (i) the school within whose attendance boundaries the student's custodial parent
2246 resides; or

2247 (ii) the school from which the student withdrew for the purpose of attending a private
2248 school, micro-education entity, home-based education entity, or home school.

2249 (d) A school other than a school described in Subsection (2)(c)(i) or (ii) may allow [~~a~~
2250 ~~private school student or a home school student~~] a student of a private school, micro-education
2251 entity, or home school to participate in an extracurricular activity other than:

2252 (i) an interscholastic competition of athletic teams sponsored and supported by a public
2253 school; or

2254 (ii) an interscholastic contest or competition for music, drama, or forensic groups or
2255 teams sponsored and supported by a public school.

2256 (3) (a) Except as provided in Subsections (4) through (13), a private school or home
2257 school student shall be eligible to participate in an extracurricular activity at a public school

2258 consistent with eligibility standards:

2259 (i) applied to a fully enrolled public school student;

2260 (ii) of the public school where the private school or home school student participates in
2261 an extracurricular activity; and

2262 (iii) for the extracurricular activity in which the private school or home school student
2263 participates.

2264 (b) A school district or public school may not impose additional requirements on a
2265 private school or home school student to participate in an extracurricular activity that are not
2266 imposed on a fully enrolled public school student.

2267 (c) (i) A private school or home school student who participates in an extracurricular
2268 activity at a public school shall pay the same fees as required of a fully enrolled public school
2269 student to participate in an extracurricular activity.

2270 (ii) If a local school board or charter school governing board imposes a mandatory
2271 student activity fee for a student enrolled in a public school, the fee may be imposed on a
2272 private school or home school student who participates in an extracurricular activity at the
2273 public school if the same benefits of paying the mandatory student activity fee that are
2274 available to a fully enrolled public school student are available to a private school or home
2275 school student who participates in an extracurricular activity at the public school.

2276 (4) Eligibility requirements based on school attendance are not applicable to a home
2277 school student.

2278 (5) A home school student meets academic eligibility requirements to participate in an
2279 extracurricular activity if:

2280 (a) the student is mastering the material in each course or subject being taught; and

2281 (b) the student is maintaining satisfactory progress towards achievement or promotion.

2282 (6) (a) To establish a home school student's academic eligibility, a parent, teacher, or
2283 organization providing instruction to the student shall submit an affidavit to the principal
2284 indicating the student meets academic eligibility requirements.

2285 (b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school
2286 student shall:

2287 (i) be considered to meet academic eligibility requirements; and

2288 (ii) retain academic eligibility for all extracurricular activities during the activity season

2289 for which the affidavit is submitted, until:

2290 (A) a panel established under Subsection (10) determines the home school student does
2291 not meet academic eligibility requirements; or

2292 (B) the person who submitted the affidavit under Subsection (6)(a) provides written
2293 notice to the school principal that the student no longer meets academic eligibility
2294 requirements.

2295 (7) (a) A home school student who loses academic eligibility pursuant to Subsection
2296 (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted
2297 the affidavit under Subsection (6)(a) provides written notice to the school principal that the
2298 home school student has reestablished academic eligibility.

2299 (b) If a home school student reestablishes academic eligibility pursuant to Subsection
2300 (7)(a), the home school student may participate in extracurricular activities for the remainder of
2301 the activity season for which an affidavit was submitted under Subsection (6)(a).

2302 (8) A person who has probable cause to believe a home school student does not meet
2303 academic eligibility requirements may submit an affidavit to the principal:

2304 (a) asserting the home school student does not meet academic eligibility requirements;
2305 and

2306 (b) providing information indicating that the home school student does not meet the
2307 academic eligibility requirements.

2308 (9) A principal shall review the affidavit submitted under Subsection (8), and if the
2309 principal determines it contains information which constitutes probable cause to believe a
2310 home school student may not meet academic eligibility requirements, the principal shall
2311 request a panel established pursuant to Subsection (10) to verify the student's compliance with
2312 academic eligibility requirements.

2313 (10) (a) A school district superintendent shall:

2314 (i) appoint a panel of three individuals to verify a home school student's compliance
2315 with academic eligibility requirements when requested by a principal pursuant to Subsection
2316 (9); and

2317 (ii) select the panel members from nominees submitted by national, state, or regional
2318 organizations whose members are home school students and parents.

2319 (b) Of the members appointed to a panel under Subsection (10)(a):

2320 (i) one member shall have experience teaching in a public school as a licensed teacher
2321 and in home schooling high school-age students;

2322 (ii) one member shall have experience teaching in a higher education institution and in
2323 home schooling; and

2324 (iii) one member shall have experience in home schooling high school-age students.

2325 (11) A panel appointed under Subsection (10):

2326 (a) shall review the affidavit submitted under Subsection (8);

2327 (b) may confer with the person who submitted the affidavit under Subsection (8);

2328 (c) shall request the home school student to submit test scores or a portfolio of work
2329 documenting the student's academic achievement to the panel;

2330 (d) shall review the test scores or portfolio of work; and

2331 (e) shall determine whether the home school student meets academic eligibility
2332 requirements.

2333 (12) A home school student who meets academic eligibility requirements pursuant to
2334 Subsection (11), retains academic eligibility for all extracurricular activities during the activity
2335 season for which an affidavit is submitted pursuant to Subsection (6).

2336 (13) (a) A panel's determination that a home school student does not comply with
2337 academic eligibility requirements is effective for an activity season and all extracurricular
2338 activities that have academic eligibility requirements.

2339 (b) A home school student who is not in compliance with academic eligibility
2340 requirements as determined by a panel appointed under Subsection (11) may seek to establish
2341 academic eligibility under this section for the next activity season.

2342 (14) (a) A public school student who has been declared to be academically ineligible to
2343 participate in an extracurricular activity and who subsequently enrolls in a home school shall
2344 lose eligibility for participation in the extracurricular activity until the student:

2345 (i) demonstrates academic eligibility by providing test results or a portfolio of the
2346 student's work to the school principal, provided that a student may not reestablish academic
2347 eligibility under this Subsection (14)(a) during the same activity season in which the student
2348 was declared to be academically ineligible;

2349 (ii) returns to public school and reestablishes academic eligibility; or

2350 (iii) enrolls in a private school and establishes academic eligibility.

2351 (b) A public school student who has been declared to be behaviorally ineligible to
 2352 participate in an extracurricular activity and who subsequently enrolls in a home school shall
 2353 lose eligibility for participation in the extracurricular activity until the student meets eligibility
 2354 standards as provided in Subsection (3).

2355 (15) When selection to participate in an extracurricular activity at a public school is
 2356 made on a competitive basis, a private school student and a home school student shall be
 2357 eligible to try out for and participate in the activity as provided in this section.

2358 (16) (a) If a student exits a public school to enroll in a private or home school
 2359 mid-semester or during an activity season, and the student desires to participate in an
 2360 extracurricular activity at the public school, the public school shall issue an interim academic
 2361 assessment based on the student's work in each class.

2362 (b) A student's academic eligibility to participate in an extracurricular activity under
 2363 the circumstances described in Subsection (16)(a) shall be based on the student meeting public
 2364 school academic eligibility standards at the time of exiting public school.

2365 (c) A student may appeal an academic eligibility determination made under Subsection
 2366 (16)(b) in accordance with procedures for appealing a public school student's academic
 2367 eligibility.

2368 Section 12. Section **53G-6-706** is amended to read:

2369 **53G-6-706. Placement of a student of a home school, micro-education entity, or**
 2370 **home-based education entity, who transfers to a public school.**

2371 (1) For the purposes of this section[;],

2372 [~~(a) "Home school student" means a student who attends a home school pursuant to~~
 2373 ~~Section 53G-6-204.~~]

2374 [~~(b) "Parent"~~] "parent" means the same as that term is defined in Section **53G-6-201**.

2375 (2) [~~When a home school student transfers from a home school~~] When a student of a
 2376 home school, micro-education entity, or home-based education entity transfers from a home
 2377 school, micro-education entity, or home-based education entity to a public school, the public
 2378 school shall place the student in the grade levels, classes, or courses that the student's parent
 2379 and [in consultation with] the school administrator determine are appropriate based on the
 2380 parent's assessment of the student's academic performance.

2381 (3) (a) Within 30 days of [~~a home school~~] the student's placement in a public school

2382 grade level, class, or course, either the student's teacher or the student's parent may request a
2383 conference to consider changing the student's placement.

2384 (b) If the student's teacher and the student's parent agree on a placement change, the
2385 public school shall place the student in the agreed upon grade level, class, or course.

2386 (c) If the student's teacher and the student's parent do not agree on a placement change,
2387 the public school shall evaluate the student's subject matter mastery in accordance with
2388 Subsection (3)(d).

2389 (d) The student's parent has the option of:

2390 (i) allowing the public school to administer, to the student, assessments that are:

2391 (A) regularly administered to public school students; and

2392 (B) used to measure public school students' subject matter mastery and determine
2393 placement; or

2394 (ii) having a private entity or individual administer assessments of subject matter
2395 mastery to the student at the parent's expense.

2396 (e) After an evaluation of a student's subject matter mastery, a public school may
2397 change [a] the student's placement in a grade level, class, or course.

2398 (4) [~~This~~] In accordance with Section 53G-6-702, this section does not apply to a
2399 student who is dual enrolled in a public school and a [~~home school pursuant to Section~~
2400 53G-6-702];

2401 (a) home school;

2402 (b) micro-education entity; or

2403 (c) home-based education entity

2404 Section 13. Section **53G-9-301** is amended to read:

2405 **53G-9-301. Definitions.**

2406 As used in this part:

2407 (1) "Department" means the Department of Health and Human Services created in
2408 Section 26B-1-201.

2409 (2) "Health official" means an individual designated by a local health department from
2410 within the local health department to consult and counsel parents and licensed health care
2411 providers, in accordance with Subsection 53G-9-304(2)(a).

2412 (3) "Health official designee" means a licensed health care provider designated by a

2413 local health department, in accordance with Subsection [53G-9-304\(2\)\(b\)](#), to consult with
2414 parents, licensed health care professionals, and school officials.

2415 (4) "Immunization" or "immunize" means a process through which an individual
2416 develops an immunity to a disease, through vaccination or natural exposure to the disease.

2417 (5) "Immunization record" means a record relating to a student that includes:

2418 (a) information regarding each required vaccination that the student has received,
2419 including the date each vaccine was administered, verified by:

2420 (i) a licensed health care provider;

2421 (ii) an authorized representative of a local health department;

2422 (iii) an authorized representative of the department;

2423 (iv) a registered nurse; or

2424 (v) a pharmacist;

2425 (b) information regarding each disease against which the student has been immunized
2426 by previously contracting the disease; and

2427 (c) an exemption form identifying each required vaccination from which the student is
2428 exempt, including all required supporting documentation described in Section [53G-9-303](#).

2429 (6) "Legally responsible individual" means:

2430 (a) a student's parent;

2431 (b) the student's legal guardian;

2432 (c) an adult brother or sister of a student who has no legal guardian; or

2433 (d) the student, if the student:

2434 (i) is an adult; or

2435 (ii) is a minor who may consent to treatment under Section [26-10-9](#).

2436 (7) "Licensed health care provider" means a health care provider who is licensed under
2437 Title 58, Occupations and Professions, as:

2438 (a) a medical doctor;

2439 (b) an osteopathic doctor;

2440 (c) a physician assistant; or

2441 (d) an advanced practice registered nurse.

2442 (8) "Local health department" means the same as that term is defined in Section
2443 [26A-1-102](#).

2444 (9) "Required vaccines" means vaccines required by department rule described in
2445 Section [53G-9-305](#).

2446 (10) (a) "School" means any public or private:

2447 [~~(a)~~] (i) elementary or secondary school through grade 12;

2448 [~~(b)~~] (ii) preschool;

2449 [~~(c)~~] (iii) child care program, as that term is defined in Section [26-39-102](#);

2450 [~~(d)~~] (iv) nursery school; or

2451 [~~(e)~~] (v) kindergarten.

2452 (b) "School" does not include:

2453 (i) a home-based education entity; or

2454 (ii) a micro-education entity.

2455 (11) "Student" means an individual who attends a school.

2456 (12) "Vaccinating" or "vaccination" means the administration of a vaccine.

2457 (13) "Vaccination exemption form" means a form, described in Section [53G-9-304](#),

2458 that documents and verifies that a student is exempt from the requirement to receive one or
2459 more required vaccines.

2460 (14) "Vaccine" means the substance licensed for use by the United States Food and
2461 Drug Administration that is injected into or otherwise administered to an individual to
2462 immunize the individual against a communicable disease.